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T H E  
C A S E  
OF THE  
*EAST-INDIA COMPANY,*

AS STATED AND PROVED

At the Bar of the House of LORDS,

On the 15th and 16th Days of DECEMBER, 1783,

UPON THE HEARING OF

T W O P E T I T I O N S

AGAINST

A BILL, intituled “ An Act for establishing cer-  
“ tain Regulations, for the better Management  
“ of the Territories, Revenues, and Commerce  
“ of this Kingdom in the *East-Indies*.”

CONTAINING

T H E A R G U M E N T S

O F

Mr. ROUS and Mr. DALLAS,

For the COMPANY;

Mr. HARDINGE and Mr. PLUMER,

For the DIRECTORS;

As taken in SHORT-HAND by Mr. GURNEY.

Published by Order of the COMMITTEE of PROPRIETORS  
appointed to watch over the COMPANY'S Rights, and  
maintain their Privileges.

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THE CASE  
OF THE  
*EAST-INDIA COMPANY,*

AS STATED AND PROVED

At the Bar of the HOUSE of LORDS.

**I**N order to give the Reader a full view of the subject, it may be proper, in the first place, to state shortly the most material parts of the Bill, against which the Company were called to defend themselves at the bar of the House of Lords, intituled, “ An  
“ Act for establishing certain regulations for the better  
“ management of the territories, revenues, and com-  
“ merce of this kingdom, in the *East-Indies*.

The preamble of the Bill is as follows.

“ Whereas disorders of an alarming nature and  
“ magnitude have long prevailed, and do still con-  
“ tinue and increase, in the management of the ter-  
“ ritorial possessions, the revenues, and the commerce  
“ of this kingdom, in the *East-Indies*; by means  
“ whereof the prosperity of the natives hath been  
“ greatly diminished, and the valuable interests of  
“ this nation in the said territorial possessions, re-  
“ venues, and commerce, have been materially im-  
“ paired; and would probably fall into utter ruin,

“ if an immediate and fitting remedy were not provided.”

Upon this preamble the Bill proceeds to enact, 1st, “ That the government and management of the territorial possessions, revenues, and commerce of the United Company of Merchants of *England*, trading to the *East-Indies*, by the Directors and Proprietors of the said Company, or either of them; and all and singular the powers and authorities of the said Directors and Proprietors, or of any special, or general, or other Court thereof, in the ordering and managing the said possessions, revenues, and commerce; and all elections of Directors of the said United Company, be, and are hereby declared to be, discontinued, for and during the continuance of this act; any charter, usage, law, or statute to the contrary, notwithstanding.”

2dly, “ That, for the better governing, ordering, and managing the said territorial possessions, revenues, and commerce, the Right Hon. Earl *Fitzwilliam*, the Right Hon. *Frederick Montagu*, the Right Hon. *George Legge*, commonly called Lord *Viscount Lewisham*, the Hon. *George Augustus North*, Sir *Gilbert Elliot*, Bart. Sir *Henry Fletcher*, Bart. and *Robert Gregory*, Esq; shall be, and they are hereby constituted and appointed Directors of the said United Company, and shall be, and they are hereby, constituted Members of the said Company; and that the said Directors hereby appointed, or any three of them, shall have, use, possess, and exercise, all and singular the powers and authorities, which have been at any time heretofore vested in, or lawfully exercised by, the said Directors



“ Directors hereby discontinued, or Proprietors, or  
 “ by the General Court of Proprietors of the said  
 “ United Company, and all such farther and other  
 “ powers and authorities, and under such directions,  
 “ and subject to such limitations and restrictions, as  
 “ in this Act, or in any other Act, the provisions  
 “ whereof are not hereby altered or repealed, are con-  
 “ tained, for the government and management of  
 “ the said territorial possessions, revenues, and com-  
 “ merce, of the said United Company, or in any wise  
 “ relative thereto.”

3dly, “ That the said Directors hereby appointed  
 “ shall, and they are hereby authorised and impow-  
 “ ered, immediately from and after the commence-  
 “ ment of this Act, to enter into and upon, and to  
 “ possess themselves of all lands, tenements, houses,  
 “ warehouses, and other buildings whatever of or  
 “ belonging to the said United Company; and also  
 “ to take into their custody and possession all books,  
 “ records, documents, charters, acts, instruments,  
 “ letters and other papers whatever; and also all ships  
 “ and vessels, goods, wares, merchandises, money,  
 “ securities for money, and all other effects whatso-  
 “ ever, of or belonging to the said United Company,  
 “ in trust for, and for the benefit of, the Proprietors  
 “ thereof, and to have, hold, and possess the same,  
 “ in like manner as they were held and possessed by  
 “ the Directors hereby discontinued, subject to such  
 “ charges, claims, and demands, as do or may affect  
 “ the same; which Directors so discontinued, and  
 “ all other officers and servants of the said United  
 “ Company, are hereby enjoined, immediately upon  
 “ the requisition of the said Directors hereby ap-

“ pointed, signified under their hands and seals, or  
 “ the hands and seals of any three of them, to deliver  
 “ to them, or to such person or persons as they shall  
 “ for that purpose appoint, all such lands, tenements,  
 “ houses, warehouses, buildings, books, records, do-  
 “ cuments, charters, acts, instruments, papers, ships,  
 “ vessels, goods, wares, and merchandises; money, se-  
 “ curities for money, and all other effects whatsoever.”

4thly, “ For the sole purpose of ordering and ma-  
 “ naging the commerce of the said United Company,  
 “ *under, and subject to the orders and directions of the*  
 “ *said Directors hereby appointed*, be it further enacted;  
 “ That *Thomas Cheap*, Esquire, *George Cuming*, Es-  
 “ quire, *Richard Hall*, Esquire, *John Harrison*, Esquire,  
 “ *Joseph Sparkes*, Esquire, *John Michie* Esquire, *John*  
 “ *Smith*, Esquire, *George Tatem*, Esquire, and *James*  
 “ *Moffat*, Esquire, being proprietors, each of them, of  
 “ two thousand pounds capital stock in the said United  
 “ Company, at least, shall be Assistant Directors, for  
 “ the purpose last aforesaid; and shall, from time to  
 “ time, without requisition, and also as often as they  
 “ shall be thereunto required, render an account of  
 “ their proceedings, to the said Directors hereby ap-  
 “ pointed; and in all matters and things whatsoever,  
 “ shall pursue and follow such orders and directions, as  
 “ they shall from time to time receive from such Directors.”

The Bill directs, that vacancies in the office of Directors shall be supplied by his Majesty; and vacancies of Assistant Directors, by the election of the proprietors; and contains many other clauses which are not thought to be sufficiently important to trouble the reader with, as they are mere regulations, applicable to the government of the Company's affairs, by

“ seven

seven Directors, assisted by nine Assistant Directors, as above mentioned.

Two petitions were presented against this Bill, one by the Company at large, the other by the Court of Directors. They are as follows:

“ To the Right Honourable the LORDS, Spiritual and Temporal, in Parliament assembled,

“ The Humble Petition of the United  
“ Company of Merchants of *England*,  
“ trading to the *East-Indies*,

“ Sheweth,

“ THAT a Bill is now depending before your Lordships, entitled, *An Act for establishing certain regulations, for the better management of the territories, revenues, and commerce of this kingdom, in the East-Indies.*

“ That the said Bill destroys the constitution, and wholly subverts the rights and privileges granted to your Petitioners, by Charter made for valuable considerations, and confirmed by divers Acts of Parliament; and empowers certain persons therein named, as Directors, appointed by the said Bill, to seize and take possession of all the lands, tenements, houses, warehouses, and other buildings; books, records, charters, letters, and other papers, ships, vessels, goods, wares, merchandises, money, securities for money, and all other effects belonging to your Petitioners; and this without charging your Petitioners with any specific delinquency, or stating any just ground upon which their rights, capacities, and franchises ought to be forfeited, or their property to be seized; a proceeding contrary

“ to



“ to the most sacred privilege of *British* subjects; that  
 “ of being tried and convicted upon a specific charge,  
 “ before judgment is passed against them, in any case  
 “ whatsoever.

“ Moreover, the said Bill empowers and authorises  
 “ the said Directors, to carry on a trade with the pro-  
 “ perty of your Petitioners, and at their risque, with-  
 “ out their consent or controul; for the consequence  
 “ whereof, your Petitioners are exceedingly alarmed;  
 “ and therefore they most humbly crave leave solemn-  
 “ ly to protest against the same.

“ If your Lordships should think that any reason,  
 “ or necessities of State, may warrant so harsh a mea-  
 “ sure, as that of divesting your Petitioners of their  
 “ franchises and property, your Petitioners entertain  
 “ the most perfect confidence in your Lordships wis-  
 “ dom, as well as justice, that the actual existence  
 “ of such State necessities, or other reasons, will be  
 “ established by the clearest and fullest evidence; and  
 “ your Petitioners humbly refer your Lordships to the  
 “ example of all former times, in which every en-  
 “ croachment upon the sacred rights of private pro-  
 “ perty, or private franchises, have been amply com-  
 “ pensated by the wisdom and justice of the Legis-  
 “ lature.

“ Your Petitioners therefore most humbly pray,  
 “ that they may be heard by themselves, or  
 “ their Counsel, against the said Bill; and  
 “ that your Lordships, in your justice, will  
 “ protect their rights, privileges, and pro-  
 “ perty, against this most unconstitutional  
 “ and unprecedented measure, subversive of  
 “ your

“ your Petitioners constitution, divesting  
 “ them of their rights and privileges, seizing  
 “ their property, and continuing a trade at  
 “ their risque, but without their consent or  
 “ controul.

“ And your Petitioners shall ever pray, &c.

“ To the Right Honourable the LORDS, Spi-  
 “ tual and Temporal, in Parliament assembled,

“ The Humble Petition of the Court of  
 “ Directors, of the United Company of  
 “ Merchants of *England*, trading to the  
 “ *East-Indies*,  
 “ Sheweth,

“ THAT your Petitioners, respectively, have been  
 “ duly elected, and admitted to the office of Directors  
 “ of the said United Company, pursuant to, and  
 “ under the authority of the Charter of the said Com-  
 “ pany, and divers Acts of Parliament; and particu-  
 “ larly under the authority of an Act made in the  
 “ 13th year of the reign of his present Majesty, en-  
 “ titled, *An Act for establishing certain regulations for*  
 “ *the better management of the affairs of the East-India*  
 “ *Company, as well in India as in Europe*, by which  
 “ said Act, your Petitioners, as Directors of the said  
 “ Company, are entitled to hold their respective of-  
 “ fices, for the term of four years, from the time of  
 “ their election, and cannot legally be removed from  
 “ the same, without some breach of duty, or miscon-  
 “ duct in their said Offices,

“ That your Petitioners are informed, that a Bill is  
 “ now depending before your Lordships, entitled

“ *An*

“ *An act for establishing certain regulations for the better*  
 “ *management of the territories, revenues, and commerce*  
 “ *of this kingdom, in the East-Indies*—which said bill  
 “ is grounded upon a general allegation of disorders  
 “ of an alarming nature and magnitude, having long  
 “ prevailed, and still continuing, and increasing, in  
 “ the management of the territorial possessions, the  
 “ revenues, and commerce of this kingdom, in the  
 “ *East-Indies*; and therefore it is proposed by the said  
 “ bill, to remove and displace your Petitioners from  
 “ the said offices of Directors of the said Company,  
 “ and to deprive them of their franchises and rights;  
 “ although your said Petitioners are not thereby  
 “ charged with any specific offence, whereby the same  
 “ ought to be, or can be forfeited.

“ Your Petitioners conceive themselves to be in-  
 “ jured by the said Bill, in depriving them of their  
 “ rights and franchises, without just cause; but they  
 “ feel this injury much aggravated by the imputation  
 “ which must arise against your Petitioners’ characters,  
 “ and good names, by being removed from their  
 “ offices, in manner aforesaid: and moreover your  
 “ Petitioners consider themselves called upon, in duty,  
 “ to lay their reasons before your Lordships, against  
 “ the said Bill, as affecting and destroying the rights  
 “ of their constituents, committed to their care,  
 “ whose property has been very much hurt and les-  
 “ sened, and the general credit of the Company  
 “ shaken, since the measure of the said Bill has been  
 “ agitated.

“ That your Petitioners humbly hope, when the  
 “ Witnesses shall be heard, and the written evidence  
 “ shall be read, that it will clearly appear to your  
 “ Lordships,



“ Lordships, that the *East-India Company* are neither  
 “ insolvent, nor have done any thing which can be  
 “ deemed a just cause of forfeiture.

“ Your Petitioners therefore most humbly pray,  
 “ that they may be heard, by themselves,  
 “ or their Counsel, against the said Bill; and  
 “ that your Lordships will not permit the  
 “ same to pass into a law.

“ And your Petitioners shall ever pray.”

The Lords having been pleased to allow Counsel,  
 for the Company, and for the Directors, to be heard  
 upon these petitions, at the second reading of the Bill,  
 on *Monday*, the 15th of *December*, 1783, the Counsel  
 then attended accordingly, and proceeded as follows:

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Mr. R O U S.

I Appear at your Lordships' bar, on behalf of the  
*East-India Company*, against a Bill, the title of which  
 assumes their territories, revenues, and commerce,  
 to be the property of the State.—The first clause of  
 which abrogates all the rights of my clients—the  
 second confiscates their property. In a country which  
 boasts of its liberty, founded on laws,—before an  
 august assembly, the peculiar guardians of those  
 laws—possessing the supreme judicial authority in the  
 last resort,—on whose integrity and firmness in up-  
 holding the legal rights of the subject, every thing  
 valuable in this country must depend, I am to con-  
 tend for a proposition, which, to my understanding,  
 does not require much argument to support, That  
 the rights of my clients shall not be abrogated,  
 their

their property shall not be confiscated, without the imputation of a crime. The Bill, indeed, with a refinement of tyranny, with a cruel mockery of the oppressed, asserts that their property remains. I shall not waste your Lordships' time in discussing, what that property is, which consists neither in a present right of enjoyment, nor future right of disposition. This creature of the imagination, this abstract idea, may serve as the amusement of schoolmen; but, with men of the world, can only be the object of derision and contempt. To assert that the property remains, in a Bill like the present, is a libel on the sincerity of Parliament, an insult on the common sense of the Nation. I shall therefore take the liberty to treat this Bill as what it really is, an abrogation of all the rights, and a confiscation of all the property of my Clients. When I look to the preamble for the cause of this violence, I feel myself in a situation in which no advocate ever stood, in any country. Where the highest punishment is inflicted, no specific charge is attempted, no reference made to person, time, or place; no circumstance suggested, which can lead the imagination to guess at the crime imputed, or suggest the possibility of an answer.

This odious preamble may serve any purpose equally with the present. Before it no Government can stand. Apply it to the Government under which we live; and with some variations in the phrase, with a strength of colouring which in *our case* cannot be attempted with even the semblance of truth, it would be admirably adapted to the overthrow of the Constitution.—“Whereas disorders of an alarm-  
“ing

“ing nature and magnitude have prevailed in the  
 “Government of this Kingdom, by means whereof  
 “a large portion of the Empire hath been lost; the  
 “remainder is sinking, oppressed with debt, even to  
 “the verge of bankruptcy; and the whole may fall  
 “into utter ruin, unless a speedy remedy be ap-  
 “plied”—Are your Lordships therefore prepared to  
 say, the Crown shall be put in commission? Yet  
 suffer this reasoning to prevail, the thing may be at-  
 tempted, and your Lordships may be again declared  
 an useless part of the Constitution. That your  
 Lordships are not an useless part of the Constitution,  
 the authors of the Bill will learn, I trust, from the  
 event of the day.

To a preamble which deals wholly in generals,  
 no particular answer can be given. Your Lordships  
 therefore will pardon me, if I trespass somewhat  
 on your patience in the detail of evidence which I  
 shall produce at your Bar. I shall shew that the  
 rights in question were purchased of the State, on  
 the footing of equal contract, for a price paid—that  
 the *East-India* Company were invited by the public  
 faith, pledged for their enjoyment, to make per-  
 manent establishments, and that in the prosecution  
 of this national object they have expended many  
 millions—that they are possessed of a valuable pro-  
 perty of great extent, the right of which is un-  
 questionable—and that of the revenues, the right to  
 which has been contested, your Lordships have, in  
 this Parliament, within two years from the hour at  
 which I speak, pledged the public faith for their  
 possession, during a period of ten years. I shall then  
 proceed to meet the idea of necessity, on every  
 ground



ground on which it can be stated—the situation of affairs abroad—the government of the Company at home—the state of their finances, and their credit.

In opening the evidence, which I am instructed to produce, I must throw myself wholly on the indulgence of the House. I was flattered with the hope that this task would have devolved upon a Gentleman, of much superior abilities; but the shortness of time allowed, from the difficulty of collecting materials of such intricacy and extent, induced him to decline the task. After such an example, nothing less than the peculiar relation I bear to the Company, nothing but a sense of duty, which compels me to forget every personal consideration, could have urged me to make the attempt. However I may fail, I have the consolation, at least, to know, that my defects will be amply compensated, by the attention and wisdom of your Lordships.

In opening the first part of the subject, I need scarcely observe to your Lordships, that the regulation of foreign commerce, and the powers under which armies were raised and disciplined, were anciently regarded as a part of the Prerogative of the Crown. Under this prerogative a Company existed, for more than a century, with powers nearly similar to those of the present. The greater part indeed of these powers given by the prerogative to the old Company have since been ingrafted into the new, by legislative authority. Every nation that has attempted the *East-India* commerce has made the attempt in nearly a similar manner, by an exclusive Company, armed with political and military powers.—With this experience, therefore, domestic and foreign, before them, when  
the

the nature of legislative authority was better understood in this country, at the Revolution, Parliament interposed to continue the existence of these rights; and the Charter of the present Company was purchased for a loan of two millions, under the Act of the 9th and 10th of *William III.* in the year 1698, with some reservations in favour of the old Company.—A short experience however proved the dangerous effects of competition; and an agreement for uniting the two Companies was formed under Royal and Parliamentary authority. In an instrument, to which the Queen was a party, under the Great Seal, the old Company conveyed all their territories, forts, fortifications, and other possessions, with the ordnance, arms, and ammunition; and her Majesty expressly authorised the grantees to build other fortifications, to furnish these with military stores, and to raise, train, and muster, the forces necessary for their defence. Even the right of coinage in *India* is given by this charter to the Company; and her Majesty, having authorised the transfer of the islands of *Bombay* and *St. Helena*, originally derived from the grants of *Charles II.* solemnly engaged to ratify and confirm all the powers that were contained in those original grants. In the first of those original grants, the King, “for the encouragement of the Company, in their difficult and hazardous trade and traffic,” conveys the island of *Bombay*, with all his rights, in the same extent in which they were ceded to him by the King of *Portugal*, and constitutes the Company “true and absolute Lords and Proprietors of the port and island.” The King conveys all warlike stores, and authorises the Company “to  
exercise

“ exercise martial law, and enforce military discipline,  
 “ in as large and ample manner, to all intents and  
 “ purposes whatsoever as any Captain-general of our  
 “ Army, by virtue of his office, has used and accus-  
 “ tomed, or may and might lawfully do.” This  
 grant farther extends all the privileges given within  
*Bombay* to such places as they possess, or may here-  
 after acquire within the limits of their Charter. The  
 rights of war and peace are likewise given by this,  
 and several subsequent charters. Your Lordships  
 cannot but observe, that some of the rights here con-  
 veyed, have, since the Revolution, been understood to  
 belong only to the Legislature. But these powers,  
 which formerly were exercised under the Prerogative,  
 have since been given by Parliament, informed by an  
 experience of the use to which they had been ap-  
 plied. By a statute reciting that “ the Company  
 “ are possessed of several principal settlements in the  
 “ *East-Indies*, and have several settlements and fac-  
 “ tories subordinate to such principal settlements,  
 “ and are also possessed of the Island of *St. Helena*,  
 “ and do, at their own costs and charges, maintain  
 “ troops,” military powers are given nearly in the terms  
 of the Mutiny Act—with this difference, that, instead  
 of an annual grant, the Mutiny Act of the *East-India*  
 Company is co-extensive with their other rights, and  
 continues as long as they possess a military force.

The union of the two Companies, and the con-  
 veyance of her rights, though in point of form the  
 Crown were the party, was effected under legislative  
 authority; for the 6th of *Anne* recognises the transac-  
 tion, and authorises Lord *Godolphin*, then High Treas-  
 urer, to estimate the forts and factories conveyed.

Under



Under his award these were purchased at the price of four hundred thousand pounds. At this period the redemption of the annuity determined the Corporation; but the 10th of *Ann*, chap. 28, reciting the clause of redemption, proceeds in these terms: "Now to the intent that the "United Company of Merchants of *England* trading to the *East-Indies*, and their successors, "may be the better encouraged to proceed in their "trade, and to make *lasting settlements* for the support and maintenance thereof." The Act therefore renders their rights perpetual. Here then your Lordships find, after the experience of more than a century—for so long the old Company had existed under the prerogative—after this Company had subsisted many years, an invitation is deliberately given by the Legislature to the Company to expend their property in making *lasting settlements*. Under this invitation, and relying upon the public faith, I shall prove the Company to have expended many millions in forts, factories, and fortifications, or, in the terms of the Act, making *lasting settlements*. The sums so expended, adding the four hundred thousand pounds paid under Lord *Godolphin's* award, will amount to near seven millions. I shall prove likewise, that during a short period of years, the Company expended from their trading stock, in waging a war with *France*—a war into which they were forced by the nation, after having stipulated a neutrality for themselves—and in other wars which had the concurrence of the State, a sum exceeding five millions. Your Lordships will find that, during this and the antecedent period, great property was acquired, partly by the grants of Princes in a state of profound peace, partly from Princes to whom assistance had

been given in the struggle with *France*. the revenues of which, taken together, exceed the sum of one million annually. This scene was closed by the Treaty of *Paris* in 1763, in which the Crown, with the knowledge of your Lordships, and in the face of all *Europe*, hath stipulated that no compensation should be claimed by either the *French* or *English* Company from each other, plainly considering the acquisitions made by our Company as a compensation for the exertions made in the national cause. As the Crown, so the Legislature have recognised these possessions in the Company, declaring in terms *their* possession to be legal in no less than five successive Acts of Parliament. I will not observe to your Lordships what the language of these Charters, and Acts of Parliament, founded on the experience of our conduct, has been. The terms of commendation contained in them will sufficiently speak to your Lordships. All I shall say is, that to *this period* the possessions of the Company were unquestionable and unquestioned; yet, without discrimination or investigation, this Bill sweeps away the whole like a whirlwind, and involves all our rights and property in one undistinguished ruin.

The revenues subsequently acquired, I am aware, are of a different description: I mean those acquired in 1765. To these a claim has been made on the part of the Public, founded rather on the magnitude of the object, and political expedience, than an idea of right; which claim to this hour remains undecided.

To the purpose perhaps of the present argument it may not be necessary to distinguish, because the possession of these territories has been confirmed to the  
Company

Company by Parliament in four successive Acts, upon the footing of equal contract for the term of ten years yet unexpired. Of these possessions I shall only observe, that the acquisition has not been condemned by the State, and that the Public have participated, after the attention of Parliament had frequently been called to the subject, and your Lordships were possessed of all the materials necessary to inform your understandings. These revenues, added to the other possessions of the Company, exceed somewhat the annual amount of five millions. The whole of these are continued in the possession of the Company by several Acts of Parliament; the last of which is in 1781, within two years from the hour at which I speak. This last Act provides for every national interest, by conferring a power on the supreme executive Magistrate of the country, to be exercised by the proper responsible Minister of the Crown, the Secretary of State, a power of regulating the intercourse upheld with any *Indian* Prince, and all matters relative to war and peace—every thing, in short, in which the national interest can be involved. This provision your Lordships thought, after every possible information obtained, to be a sufficient security to the public interest; and have solemnly, by an Act of Legislation, pledged the national faith for the possession to the Company of their territories, under this reserve. Here then I make my first stand, on the immutable basis of natural justice—on principles which bind your Lordships in your legislative capacity equally with the meanest subject: and I call upon your Lordships to decide in a cause to which you yourselves are a party and in which you will judge with that peculiar



delicacy which your high birth is fitted to inspire, whether, under any circumstances, which imagination can suggest, it can be just, or honest, to rend the whole from the Company, without the smallest compensation.

I know, my Lords, the plea of necessity has been employed on the present occasion. I will not amuse your Lordships with declamation. I will only observe, that this odious plea of necessity has been employed, in the worst times, to the worst of purposes—that, as applied to domestic government, it was buried at the Revolution; and that, on the abrogation of this detestable, and detested principle, the subsequent prosperity of the State arose, on the broad basis of Law and Justice. To the purposes of this Bill, necessity cannot have an existence, cannot afford an argument. The principle of necessity is self-preservation—a law given by the Creator, to man, in the first impression on his nature, and applicable equally to communities as to individuals: but the application must vary with the subject. Between independent communities, where force is the arbiter, and the God of Battles, the only judge to whom the appeal can be made, all writers agree, that necessity may authorise acts, that would otherwise be unjust; because those acts are *measures of prevention*. These writers on the law of nations agree, that not only circumstances which indicate an hostile mind; but even the increase of force, which, in its progress, might render the safety of a community dependent on the integrity of other sovereigns, may be a just cause of aggression, and of war. But, in the same community, the plea of necessity can never be applied to authorise

authorise the seizure of private property. This were to establish a principle which must subvert the very foundations of society, by destroying those rights, for the preservation of which, government can alone exist. In this Country, public convenience, or public necessity, have never yet been carried farther by the Legislature, than to compel the individual to relinquish his private rights, upon a full and adequate compensation; of which, in this Bill, there is not a trace to be found. Arbitrarily to seize property—to give the management to those not chosen by the owner, nor under his controul, and yet to expose him to all the consequences of their misconduct, is a refinement of tyranny, unknown in the history of mankind. Inapplicable as the plea of necessity, therefore, is to the decision of your Lordships, on the Bill before you, I shall, nevertheless, not decline the task; but am ready, am forward, to combat this political hydra, on every ground on which it can appear. I will meet it in the situation of affairs abroad—in the government of the Company at home—in the state of her finances.

In the situation of affairs abroad, where is the appearance of necessity to be found? In *India* at this hour all is peace; I speak with confidence; I would stake my head on the event: and if your Lordships will defer this Bill for a short period, intelligence of the event will arrive. Without this intelligence I will demonstrate the existence of peace, assuming only this proposition, that *Tippo Saib*, like every other human being, is desirous to preserve himself. With the *Mahrattas* a treaty of peace has been already concluded. The Gentlemen at *Bambay* may affect to

obscure

obscure the subject with their doubts. They see it through the medium of self-interest, which discolours every object. They cannot approve a treaty relinquishing revenues, which must have fallen under their management. Warped, however, as their judgment is, by self-interest, they are compelled to state *facts*, from which I affirm, that our peace with the *Mabrattas* depends not on the faith of nations, but on the immutable relations and permanent interest of States. It were idle to call your Lordships' attention to the original error on this subject—an error common to his Majesty's Ministers, and to the *East-India* Company. At this hour we have abandoned the idea of acquiring territories on the Western side of *India*—we have by a solemn treaty renounced those acquired by our arms; and it appears by the last dispatches, that a day was fixed for their actual surrender. With us therefore the *Mabarattas* can have no interest to discuss. In hostility *with us* they have every thing to lose, no possible advantage to be obtained. On that side of their dominions, which borders on the country of *Tippa Saib*, a very different scene presents itself. *Hyder Ally* had conquered considerable districts from the *Mabrattas*, which he has transmitted to his Son and successor. These territories the *Mabrattas* are now preparing to reclaim by arms, and their success must depend on our assistance. On the *Coromandel* Coast, not only our possessions, but those of our Ally, the whole *Carnatic* is evacuated by the enemy. Intelligence of the peace in *Europe* had arrived. Hostilities with the *French* have actually ceased; and our armies, freed from every other enemy, are pouring into the *Combatour* country, where there is no force  
to



to resist them. In another part of *Tippo Saib's* dominions we are possessed of *Mangalore*, the capital of a considerable province. This place has indeed been besieged by *Tippo Saib*, aided by the *French*. Their joint forces have been repulsed with slaughter. Supplies to *Mangalore* have been sent by sea; and intelligence of the peace has withdrawn the assistance of the *French*. Under these circumstances the perseverance of *Tippo Saib* to recover *Mangalore* by arms, can be the subject only of derision and contempt. In this moment of dismay to our enemy a treaty is offered by the *Mahrattas* to us for the partition of his dominions. Deprived of his allies the *French*—his other allies confederating against him—his dominions invaded—part taken—the treaty of *Versailles* alone offers him the means of safety. By that treaty the secure possession of all the territories he held in the year 1776, is offered to him, if he will accede to the pacification as an ally of *France*. All therefore I assume, when I affirm that peace is restored in *India*, is this, that *Tippo Saib*, like other sovereigns, has a natural desire implanted in him to preserve himself and his dominions. If he has; if pressed by the dying request of his father, urged by the necessity of his affairs, without a prospect of other means of safety, he will demand the security which this treaty offers him as an ally of *France*; orders are gone jointly from the Courts of *Great-Britain*, and of *France*, to afford him this protection, and all is peace in *India*.

I will suppose, for a moment, that the whole of this reasoning is founded in mistake; that the situation of affairs is the reverse of the picture I have drawn; that we are involved in confusion and distress as great as  
the

the imagination of the supporters of this Bill can suggest; I then say there is no pretence of necessity for the violence which this Bill proposes. By an Act of the present Parliament, a power is created fully adequate to the redress of all political evils, and vested (where by the constitution of this country it ought alone to be vested) in his Majesty, as the Supreme Executive Magistrate of the country. The Secretary of State has full power to issue such orders as the situation of affairs may require. By former Acts, provision had been made to give the Secretary of State every possible information. All the dispatches, all the consultations abroad, all the papers which the Company or the Commissioners named in this Bill can possess, are, and have been long, in his office. Will his orders not be obeyed? Is a Minister of State so unimportant a character in this country, that his accusation will not be attended to? Or will the breach of duty, the neglect of obedience, be more likely to escape from punishment in the Directors and servants of the Company, than in the confidential friends and nominees of the Minister? Would even the neglect of duty in the Secretary of State afford an argument for this Bill? Have the House of Commons abdicated their office as accusers? Have your Lordships relinquished your station as Judges? Are not the same means existing of compelling a discharge of duty in this, as in every other part of the executive government? The laws existing are sufficient; and if they fail in the execution, the constitution has provided abundant means of redress. Far, however, be it from me, to impute to the Servants of the Crown, or to the Parliament, a neglect of their important duties.

duties. I rescue them from the calumnies of this Bill—  
—I affirm that the situation of our affairs abroad is  
prosperous. We have not only emerged from all our  
own difficulties, but we have conquered from the na-  
tional enemy, and lent from our successes to redeem  
the losses which this country has sustained in other  
parts of her foreign dominions.

Is this dreadful necessity, which confounds all or-  
der, and subverts every principle of justice to be  
found in the government of the Company at home? I  
shall produce at your Lordships' bar the acts of that  
government—the orders that have been sent to *India*.  
These acts will speak for themselves, and upon exami-  
nation will be found by your Lordships, as indeed  
they are generally admitted, to be replete with sound  
policy, and consistent with justice. But supposing  
for a moment the reverse were true, I will prove, that  
from 1773, the Executive Government of this coun-  
try, which had every means of information, were  
consulted by the Directors on every occasion—on  
every important occasion they have expressly approved  
the orders which have been sent. From the year  
1781, positive law hath given them the power of  
issuing *their own orders*; whenever those in whom the  
constitution has vested the power shall think the in-  
terest of the State requires it. If error therefore ex-  
isted, even gross and criminal error (for I will put the  
strongest possible case) are we to suffer for the error  
of his Majesty's Ministers? Or is the Crown, with the  
*East-India* Company, to be put in commission? Your  
Lordships, I am sure, will not deem it consistent with  
your wisdom to desert the beaten track of the consti-  
tution. By that constitution, we are happy in the en-  
joyment of it, an adequate remedy is provided. For  
the



the abuse of public trust, individuals alone are answerable. Ministers or Directors alike are amenable to the public justice of the country. But it is a fundamental principle of our law, without which no government can stand, that public rights are not forfeited by the delinquency of individuals. That corporate rights might so be forfeited, was indeed once contended; but the memorable occasion will serve to awaken in your Lordships breasts an abhorrence of a principle, which then was applied to overturn the constitution. Your Lordships will anticipate my reference to the cases of corporations in the reign of *Charles II.* Yet even in these proceedings the semblance of justice was observed: specific charges were stated, evidence was adduced, and the judgment referred to those, whom the constitution had appointed to determine the rights of the subject. This atrocious deed was reprobated at the Revolution, reversed by the authority of Parliament; and from that period to the present hour it has been deemed a fundamental principle in our law, that corporate rights cannot be forfeited by the delinquency of individuals. From that hour to the present, no instance has occurred, in our courts of justice, of other prosecutions than against individuals to forfeit their own peculiar franchise. Yet the present Bill is a *quo warranto*, that destroys all corporate rights, without even condescending to accuse—adding a punishment, hitherto unheard of, a forfeiture of all property without the form of trial.

Have the orders, which the Directors have transmitted to *India*, been ill executed? Have they been disobeyed? When tyrants condescend to reason, there is no end of the absurdity in which they are involved.

involved. The very men, who were intrusted with the execution, were nominated by Parliament in 1773, have been continued in their situation by successive Acts of Parliament, with every means of information, in the hands, at least, of the Minister. No power of removal is given to the Company. If these Parliamentary Nominees have abused their office, where has slept the justice of the Parliament? Are we answerable for the neglect of the House of Commons to enquire and accuse? The argument, in this view of it, is this. **WE**, the Parliament, have nominated your servants; **WE** have taken from you your natural power of recall; **WE** alone can effectually controul them; but **WE** have neglected our duty, **WE** have abdicated our trust—and therefore **WE** will confiscate *your* property. Mr. *Hastings* was originally appointed *by Parliament*, four times confirmed in his present station, the last in 1781, *by Parliament*, two years only from the hour at which I speak. I sincerely believe the calumnies thrown upon this great man, have been invented, as a disguise, to cover, in the public eye, the violence of the present measure. If these calumnies were true, the Bill will establish this admirable maxim of *good* government, that the *guilty* shall escape, the *innocent* only be punished, by confiscation and political death. If, however, the imputations be false, they are the objects of peculiar indignation; because the honour and character, the well-earned fame of a great man, are sacrificed, to reconcile the minds of the people to an act of atrocious violence. On this head, however, one answer alone would suffice. The Bill attempts no regulation, suggests no correction, even in the forms of government, that cannot

not equally be applied to the present state of the Company, as to the nominees of the Minister. It is whimsical to observe, that of the persons chosen for this great work of reformation, eleven out of sixteen, are the very men chosen by the Company. By what Parliamentary magic can the mere transposition of names, from the Charter to this Bill, correct their hearts, or enlighten their understandings? Of these Gentlemen I shall only observe, that their equals in knowledge, in ability, remain unnoticed by the Bill. To these, however, five others are added, new indeed to the subject, but whose transcendent merits are to illumine the minds, to purify the souls of their colleagues, are to inspire every principle of good government. An awkward difficulty, however, occurs.—In a case of urgent necessity, where delay is so dangerous as not to admit the forms of justice, where the loss of an hour may be the loss of *India* (for such is the apology offered for this Bill) the Noble Lord, and his four Fellow-Labourers, have the rudiments of the science to learn! When, indeed, they shall have attained a competent knowledge of the subject, we have every thing to hope from their virtues.

Shall we look for this formidable necessity, which levels all distinction of right, in the state of the finances of the Company? When I first heard this argument, I must confess, my Lord, I looked to this Bill as an Act of Supply. Will not the proposed Commissioners, or Directors, require the same assistance with the Company? Will the change of names make any real change in the situation of our affairs? I shall, however, think it my duty to lay this situation before

your



your Lordships with all possible openness, and without the least reserve.

There are two views in which the pecuniary circumstances of the Company may be considered—one, a state of their debts and credits, to establish in proof their solvency—the other, an estimate of future receipts and payments, with a view to the continuance of their commerce.

For the purpose first stated, we have prepared an account of the debts and credits of the Company, including only what is termed their quick stock. I know, my Lords, that cavils have been raised against this state of our affairs; upon which I shall only observe, that they originate in ignorance of the subject, and proceed upon a mistake of the purpose for which this account is adduced. This account will include all debts due from the Company, stated as *present demands*, though many of them will probably *never be required*; and though many of them are not due for *several years*. On the other hand, it states as property belonging to the Company, what certainly could not be immediately converted into cash, for the payment of their debts. Upon this account, a balance will appear of three millions nine hundred and sixty-eight thousand four hundred and eighty-one pounds. View, my Lords, the present situation of the finances of the Company, upon this simple state of facts. Emerging from a ruinous and extensive war, in *Europe*, and in *Asia*, which has almost made bankrupt this country, and annihilated the revenues of every State in *Europe*, we possess clear revenues, exceeding five millions sterling, unmortgaged. Every possible debt demandable at the *most distant* period of time, is considered as *paid*,  
and

and an actual surplus remains of near four millions. Where, in the history of mankind, shall we find a Government, under similar circumstances, in a similar situation? But if this account be examined with a view to our solvency, with a view to the security of our creditors, we are entitled to add a valuation, at least of those revenues which never have been claimed by the Public. We are entitled likewise to consider, what has been expended in fortifications, and other establishments for the preservation of *Bengal*, as a real charge on the revenues of that country. The mention, however, of creditors, is designed only to serve the purpose of the day. Where is the creditor that has made a complaint? I know, my Lords, that if the forms of your proceeding would admit it, there is not a creditor of the Company who would not join me at this bar, in a petition against the Bill, who would not complain of the Bill, as destructive of his interests. There is not a creditor who would not deprecate the measure proposed, as the only means of invalidating his security, and rendering his property precarious. Where, then, is the creditor that complains? The sole creditor under this description, is the Public; a creditor to the amount of one million. But is not that creditor, my Lords, a *debtor* to us, to more than four times the amount; to the amount of four millions two hundred thousand pounds? Is not this become a *present* demand, by the original terms of the contract between us, the moment our Charter is invaded, or any infringement of our commerce attempted?

To render intelligible the second view of the Company's finances, an estimate is prepared of the probable  
receipts

receipts and payments, to the first of *March*, 1786, here in *England*. By this estimate, in which every liberal allowance has been made, it will appear, that the Company require the postponement of one million of Customs, and a permission to accept bills at *such* a date, that the *goods* purchased with the *money* borrowed in *India*, may be the *means* of repayment at our sales. I will demonstrate, in evidence, that the sole cause of this temporary distress, arises, not from any misconduct of the Company, is not the consequence of any events in *India*, but is derived wholly from the *European* war, and a participation of the common calamities which have afflicted every part of the *British* Empire. To avoid all possible cavil, I will not state in this account any one article that the ingenuity of man can consider as complicated with any other consideration; I will not state the delay in the arrivals of our ships, wholly owing to the war; I will not state the vast export of stores for his Majesty's fleet in *India*; I will not state those parts of the expenditure which have been incurred in the conflict with the national enemy, *France*; and which, exported from *Europe*, have fallen upon our Treasury at home.—These articles would swell the account to many millions. I shall confine myself in proof, at your Lordship's bar, to articles which are wholly unconnected with the conduct or misconduct of the Company. The inability of this country, effectually to protect its commerce, greatly increased the price of our shipping during the war. This extra price of freight and demorage, beyond that paid in times of peace, and which is wholly therefore to be attributed to the *European* war, amounts to the sum of one million nine hundred



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and eight thousand pounds. The cargoes of our ships which have been lost by the *European* war, estimating those only at the prime cost, will amount to the sum of seven hundred and fifty-three thousand two hundred and seventeen pounds. There is another article, my Lords, which, though not of the magnitude with the former, I have an honest pride in bringing forward to public view. I glow with pleasure in being able to state, as one article, three ships of war, presented by the Company to the State, presented in the hour of general dismay, when the increasing number of our enemies, and their numerous fleets riding triumphant in the *Channel*, alarmed us for the safety of this island. The *India* Company forgetful of her own distress, attentive only to her public duty, with affectionate zeal to the State, led the way in national exertion; and endeavoured, at least by her example, to rouse the generous spirit of *Britons*, in the cause of their country. The cost of those ships is ninety-five thousand three hundred and forty-nine pounds. These three articles make a charge upon the Treasury in *England*, of two million seven hundred fifty-six thousand five hundred and fifty-six pounds, arising from the war in *Europe*, unconnected with any other cause, uninfluenced by the conduct of the Company, or events in *India*. All we now ask of the public is, a temporary credit for one million, while they possess, in *their own* custody, *our goods*, of more than three times the value; or, if this be *too much* to expect from the public, that they will deign to give us permission to negotiate a loan for ourselves. Take off those legal restraints, which have been imposed with little wisdom, and less justice,



justice, the credit of the Company will appear with a splendor, which will throw the national credit into the shade! Where, then, is this much-talked-of necessity? It may be explained in a word: You have restrained us, by your laws, from the common rights of subjects, from the power of employing our own credit; You have created our embarrassment by your own impolitic war; and now, under the tyrant's plea of necessity, you would avail yourselves of *your own Acts*, to involve *our* rights, and *our* property, in one common ruin. But I am not, my Lords, an advocate at your bar, to claim the common debt of justice. This cold demand does not become the merits of my employers. I demand honour and praise to my clients; I demand the warmest gratitude of our country. Can your Lordships, for a moment, forget, that the whole subject in question, has been created by those, for whom I appear? From slender beginnings, the Company have acquired, solely at their own expence, and at the hazard of their property alone, increasing commerce and empire to *Great Britain*. If the Company have derived little profit from the Dewannee, the public have obtained a large increase of revenue. On the footing of participation, we have paid in money, two millions four hundred and sixty-nine thousand pounds. Comparing the Customs received by the State in fifteen years, *subsequent* to the grant of the Dewannee, with a like period *antecedent*, an increase will be found of four millions nine hundred forty-nine thousand and fourteen pounds; the whole making, in the period of fifteen years, seven millions four hundred eighteen thousand and fourteen pounds, or a revenue of five hundred thousand pounds *per annum*. If more might have been derived to the State, by a wise accomoda-

tion of the laws of revenue to the change, which the commerce of *India* has undergone; this is a defect not imputable to us; this is a subject which belongs wholly to the investigation of the Legislature, and may well become their wisdom to examine. Can I close this subject without reminding your Lordships, that we have, in the late war, conquered from the national enemy, *Pondicherry, Chandanagore, Maybe*; in short, every settlement which *France* possessed on the Continent of *India*. I will read, at your Lordships' bar, the Treaty of *Verfailles*, in which these conquests, made by the *East-India* Company, have been employed to redeem the Islands which this country had lost in the *West*. With this record of our services to the State, in the view of all *Europe*, I am bold to ask your Lordships, if we are not entitled to more than justice? if we are not entitled to expect, that your Lordships should reject, with indignation and horror, an act of ungrateful violence, that must fix an indelible stain on the national character of the country?

Here I might rest the cause with perfect confidence in the honourable and upright decision of your Lordships; but the patient indulgence I have experienced, encourages me to trouble the House with a few observations on the impolitic tendency of this unjust measure: you will pardon me, therefore, obtruding upon your Lordships' wisdom, the poor suggestions of my own mind. I forebode, that this Bill, if it were possible the Bill should pass, will prove in its effects, a second awful lesson to mankind, within the period of one Reign, that injustice never can be profitable. In the *West*, it provoked resistance, and dismembered the Empire. In every part, injustice will ever inflict its own punishment, by subverting those principles of human

man

man conduct, from which the prosperity of every state must be derived—in the present instance by depressing and destroying that commerce, which can alone render possessions in *India* beneficial to *Great Britain*.

I will allow, for the sake of argument, that the Gentlemen entrusted with the execution of the Bill, possess every knowledge and every virtue which imagination can implant: yet, my Lords, there is a defect in the institution, which must ultimately destroy the only real and permanent interest of *Great Britain*, in the subject. The interest of *Great Britain* is her commerce: The export of her manufactures, the shipping, with all its train of dependencies in this country, the revenue of Customs exceeding one million two hundred thousand pounds, every possible advantage which *Great Britain* can derive from possessions in *India*, must flow wholly through the channel of her commerce. Reflect on the subject but for a moment. Without comprehending the whole detail of this commerce, no man can understand the use of revenues in *India*, or the purposes to which, as *British* possessions, they can be applied; not even the establishment of a single settlement can be adjusted, without fully comprehending the commercial relation, which the several settlements bear to each other, and ultimately to *Great Britain*—the value of each, in the general scale of affairs, and the means by which its military and civil establishments are sustained. The application of revenues in *India*, must depend on this knowledge, or our territories in that country would be worse than useless; would soon become a heavy burden to *Great Britain*. This Bill, my Lords, gives to the Commissioners the means, while it teaches them to forget the end of their institution—



institution.—It directs their views to political objects, and almost compels them to overlook the national purposes to which those revenues ought to be applied.

To combine these several objects, the institutions of the Old Company were admirably adapted: they grew with her growth, and strengthened with her strength. At home, those who saw the effect in her commerce, directed the means—abroad, her servants were early initiated in the several departments of revenue and commerce, until informed in detail, they gradually rose to a seat in council: Here, their office was to combine the whole to the ultimate object of *Great Britain*, the commerce with the Mother Country. We are told, that men so educated, are not qualified for the affairs of Government. Away with this illiberal thought, this monkish conceit, which is belied in every page of history! An elegant writer observes, “that the scene of observation was extremely limited “in the *Grecian* Republics, and the bustle of an active “life appeared inconsistent with study; but there the “human mind collected its greatest abilities, and received its best informations in the midst of sweat “and dust.” Even the beauties of thought and elocution, my Lords, spring from the animated spirit of society, and are taken from the living impressions of an active life. The human character is not formed in retirement, and from the study of books; it grows from the scene in which man is destined to act. For what *the scene*, to which I allude, has produced, I may refer your Lordships to what the servants of the *East-India* Company have written, on the subjects of war, of policy, and of commerce. I might refer to those great names, which have arisen in their service; who, while *Great Britain* claims the

the foremost rank among nations, may dispute the palm with the bravest and ablest of her sons. . I might refer to the great and much injured man, who is the more immediate object of our present attention, I mean Mr. Hastings. Possessed of every talent which can adorn, and raise the station, which he fills, indefatigable industry, penetrating sagacity, fertility in resource, but, above all, that personal and political magnanimity, which bears him undismayed through every difficulty, and has enabled him not only to extricate us, without loss, from a ruinous and extensive war, which, in every other quarter of the Globe, has diminished the territories of *Great Britain*, but to snatch the laurels from the brow of the Enemy, and, by our victories in the *East*, in a degree, to redeem the losses, which, under a *different conduct*, this unhappy Country sustained in the *West*. Whatever weight my speculations may deserve, sure I am, that experience will command the utmost attention from the wisdom of your Lordships. Under *former institutions* we *have risen* to empire. Late Acts of Parliament, framed perhaps with a partial knowledge of the subject, have somewhat impaired this system.—The present Bill wholly reverses it; and by reversing the system, will inevitably reverse the effect. As from commercial establishments we have risen to empire, so, by vesting this empire in the hands of despotism, you will depress and annihilate that commerce, which can alone render possessions in *India* beneficial to *Great Britain*. To render useless our possessions in *India*, shall all the rights of my Clients be abrogated? Shall they be despoiled of all their property? Shall every thing we have been accustomed

to deem sacred in this Country, be trodden under foot—Royal Charters—Acts of Parliament—private property—public faith.—If from this æra, the principles of our government shall be changed, if the madness and caprice of despotism shall become the rules of legislation; if all reverence for established rights shall, by examples like the present, be effaced from the minds of the people; my Clients will have the melancholy consolation to reflect, that their fortunes are buried in the ruins of the Constitution of their Country.

[Mr. Rous having ended his speech, proceeded to produce Proofs in support of the Company's case.]

*Heads of Proof.*

THE Counsel produced the Company's charter, dated *September 5, 1698*, granted pursuant to an Act of 9th and 10th *William III. Cap. 44*; in consideration of a loan of two millions, for the use of the Public.—By this charter all corporate rights were granted to the Company, to manage and conduct their own affairs by a Court of Proprietors and a Court of Directors, to be from time to time elected by the Proprietors, with power to acquire, and govern, forts, factories, and plantations; and to raise, train, and muster military forces, for the defence thereof; reserving only the sovereignty to the Crown.

Letters patent, dated 31 *May, 1609*, by which the Island of *Bombay* was granted to a former *East-India* Company, who were declared the absolute Lords and Proprietors thereof; with extensive powers of government—to raise a military force—exercise martial law, &c. and a grant of the same powers,



powers, liberties, privileges, and authorities, in and through all and every, and such and so many ports, islands, and other territories and places whatsoever, as the then Company, or their successors, should thereafter acquire, in or near *Bombay*, or in any other parts and places in the *East-Indies*.

Indentures, dated 22d *July*, 1702, to which her Majesty Queen *Anne* was a party, and executed the same under the Great Seal, whereby the Island of *Bombay*, and all the powers, privileges, and grants contained in that charter, were, with her Majesty's licence, granted to the present Company.

Letters patent, dated *January* 8, 1753, whereby power was granted to the Company, not only to use a military force, for the defence of their settlements, forts, towns, and places in *India*, but, upon just cause, to invade and destroy their Enemies.

The substance of the Acts of 6th & 10th *Anne*, 7 *Geo.* I.—3d. 17th & 23d, *Geo.* II.—7th, 9th, 13th, & 21st *Geo.* III. were stated, but, being public acts, were not read.—By these several Acts the Company's privileges were, from time to time, confirmed, in consideration of further loans to Government, of one million two hundred thousand pounds—and one million; and lessening the interest thereof, from time to time, till it was reduced to 3 *per Cent.* and in consideration of two hundred thousand pounds, given by the Company to the Public, and of large payments to Government out of the profits of the territorial possessions.—By the last of these Acts, made so lately as the year 1781, the term of the Company's exclusive trade was extended till three years notice after the

the 25th of *March*, 1691, and repayment of the four million two hundred thousand pounds due from Government, and during the term of the exclusive trade, the territorial possessions and revenues were to remain in possession of the Company, subject only to the payment of a certain share of the profits, to the use of the Public; and all rights, powers, privileges and authorities, then vested in the Company, which were not thereby expressly taken away, varied, or altered, were to remain and continue in the Company.

The Company's constitution, rights, and privileges, being proved by the foregoing Charters, and Acts of Parliament, the Counsel next proceeded to the proof of the landed property acquired by the Company in *India*, distinguishing the same under two heads:—one, of property not claimed by the Public; the other, of property to which Government have set up a claim, on behalf of the public.

Under the former of these heads, there were read, thirty-three grants, obtained from the Emperor *Furruckseer*, in the year 1717, of sundry factories and settlements in *India*, and divers privileges of trade.

A grant from the Mahrattas, dated 12th October, 1756, of two places, called *Fort Victoria*, and *Hematgur*, and ten other villages therein named.

A grant, dated 4th *September*, 1759, from the Great Mogul, and the Visier of the Castle, and *Tanka*, of *Surat*.

A grant, dated 22d *November*, 1760, from the King of *Celastria*, to the Company, of a trade throughout his dominions, duty free, on payment of a certain annual sum,

A grant

A grant from the Bouncello's, of certain lands lying between the rivers *Curlee* and *Salsee*.

A grant, dated 23d *March*, 1765, from the Prince Regent, of *Chericka*, of the Province of *Randoterrah*.—Several grants from the Nabob of *Arcot*, viz. one, dated 4th *November*, 1742, of *Perempere*, and five other villages, as a free gift.—Another, dated 2d *October*, 1749, of *Melapoore*, alias *St. Thomé*.—Another, dated 31st *December*, 1749, of the *Trevendeporam* country.—Another, dated the 26th *September*, 1750, of the *Ponamalee* country.—And another grant, dated 16th *October*, 1763, of the *Jaghire* near *Madras*.

A grant from the Nabob *Salabat, Jung*, dated 14th *May*, 1759, of the *Circar* of *Mazulipatam*, with eight districts, and of the *Circar* of *Nisampatam*, and the districts of *Condavir* and *Wacalmanna*. Another grant, dated 30th *August*, 1765, by which the last grant was confirmed, and a further grant made.

A confirmation from the Great Mogul, dated 12th *August*, 1765, of all the grants made to the Company about *Madras*.

A grant from the Great Mogul, dated 12th *August*, 1765, of the five Northern *Circars*.

A grant from the Subah of the *Decan*, dated 12th *November*, 1766, of the five Northern *Circars*, subject to certain annual payments.

Sundry grants from the Nabob of *Bengal*, viz. one, dated 16th *July*, 1736, of the *Towns* de *Calcutta*, *Soota Loote*, and *Govindpoor*.—Another, from *Serajah Dowlah*, dated *February*, 1757, to restore to the Company all the possessions before taken from them



them by him.—Another, dated 15th *July*, 1757, being a grant of free trade throughout the Provinces of *Bengal*, *Babar*, and *Orissa*, and of forty Begahs of land, wherever the Company should desire to settle a factory.—Another, dated 20th *December*, 1757, of the twenty-four purgunnahs, near *Calcutta*.—Another, dated *Mareh*, 1758, of all the salt-petre lands in the Province of *Babar*, on certain stipulated payments.

Two Sunnuds from the Dewan of *Bengal*, one of the Zemindary, near *Calcutta*, subject to certain payments; the other of the free tenure of *Calcutta*.

Three Sunnuds, from the Nabob *Cossim Ali Cawn*, whereby he granted to the Company, the Provinces of *Burdwan*, *Midnapoor*, and *Chittagong*, subject to certain military services.

Under the head of Property which has been claimed by the Public, the several grants of the Dewannees of *Bengal*, *Babar*, and *Orissa*, were produced, made by the King *Shah Aalum*, and by the Nabob of *Bengal*, the former, dated 12th *August*, 1765; the latter, 30th *September*, 1765.

The 11th Article of the Treaty of Peace between *Great Britain* and *France*, concluded at *Paris*, 10th *February*, 1763; whereby it was agreed, that the different factories which *France* possessed on the Coast of *Coromandel*, *Orixa*, and *Malabar*, and also in *Bengal*, at the beginning of 1749,<sup>a</sup> should be restored; and the *French* King renounced all pretension to the acquisition made on the Coast of *Coromandel*

<sup>a</sup> All the *French* Factories had been taken during the war: some, by his Majesty's and the Company's forces jointly; others, by the Company's forces alone.

*mandel* and *Orixa* since the beginning of 1749.<sup>a</sup> And to preserve future peace on the Coasts of *Coromandel* and *Orixa*, the *English* and *French* were to acknowledge *Mahomed Ally Khan* for lawful Nabob of the *Carnatic*, and *Salabat Jung*, for lawful Subah of the *Decan*.

Mr. *John Annis*, Auditor of *Indian Accounts*, was then examined, who proved, that the Embassy to the Great Mogul, between the years 1714 and 1717, by which the grants from him at that time were obtained, cost the Company seventy-eight thousand two hundred and thirty-four pounds—That the value of the Company's landed property, and possessions in *India*, which, as he understands, has not been claimed by the Public, amounts to the following annual sums, after deducting the charges of collection, viz,

In the Presidency of <i>Bombay</i>	-	£. 81,338
<i>Madras</i>	-	540,466
<i>Bengal</i>	-	776,875
		<hr/>
		£. 1,398,679

That the annual amount of the Dewannee revenues of *Bengal*, which have been claimed by the Public, amount, after deducting charges of collection, to two millions seventy-five thousand two hundred and seventy-two pounds.

That the Company receive a tribute from the Rajah of *Banares*, of four hundred and ninety thousand

<sup>a</sup> These acquisitions were the Circar of *Masulipatam*, &c. afterwards taken from *France*, and granted to the Company by *Salabat Jung*, 14th May, 1759.

land pounds a year—A subsidy from the Nabob of *Oude*, for the maintenance of troops there, four hundred and twenty-seven thousand pounds.—A subsidy from the Nabob of Arcot, of two hundred thousand pounds, for maintenance of garrisons in the *Carnatic*—A subsidy from the King of *Tanjore*, for maintenance of garrisons, one hundred and sixty thousand pounds.

*Samuel Nicoll*, Esq; the Company's principal Accountant, proved, that the expences sustained by the Company, out of their treasury and trading stock in *England*, of the wars and troubles in *India*, previous to the acquisition of the Dewannee, in 1765, amounted to five millions sixty-nine thousand six hundred and eighty-four pounds :

That the money paid to Government out of the profits of the territorial possessions in *India*, under various agreements, amounts to two millions one hundred sixty-nine thousand three hundred and ninety-eight pounds, eighteen shillings, and two pence; to which is to be added, three hundred thousand pounds, paid in consequence of the last Act, in part of the four hundred thousand pounds therein mentioned :—That after deducting the profits of the revenues remaining to the Company, they are now in advance, on account of their territorial possessions, to the amount of three millions six hundred and odd thousand pounds, besides interest :—That the Customs and Excise paid to Government, in fifteen years, before obtaining the Dewannee, amounted to fourteen millions nine hundred forty thousand six hundred and fifty-nine pounds ; and in fifteen years after obtaining the Dewannee, to



to nineteen millions eight hundred eighty-nine thousand six hundred and seventy-eight pounds; making an excess, in the last fifteen years, of four millions, nine hundred forty-nine thousand and nineteen pounds.

The Counsel then proceeded to shew, that the Company's possessions in *India* are freed from the calamities of war. To this purpose, they produced the treaty of peace with the *Mahrattas*, finally completed 24th *February*, 1783, wherein is contained an article, by which the *Mahrattas* engage, that *Hyder Ally Cawn* shall be made to relinquish and restore all territories belonging to the *English*, and their allies, taken by him—that all prisoners on either side should be released—that the said territories should be restored within six months from the date of this treaty. And the Company thereupon agreed, that so long as *Hyder* should abstain from hostilities against them and their allies, and should continue in friendship with the *Peshwa*, they would in no respect act hostilely towards him.

A letter from the Governor General, and Council of *Bengal*, dated 5th *April*, 1783, giving an account of the death of *Hyder Ally Cawn*, and that his son, *Tippo Saib*, had evacuated *Arcot* and *Arnee*, which were thereupon possessed by the Company's troops.

A letter from the President and Select Committee of *Fort St. George*, dated 29th *January*, 1783, giving an account of some engagements with a part of *Hyder Ally's* army, under the command of his son, *Tippo Saib*, upon the *Malabar Coast*, in which the *English* troops were successful; also, giving an account

account of *Hyder's* death, and his son having succeeded him, and being gone to the army in the *Carnatic*; and of *Hyder*, before his death, having wrote the following letter to his son, recommending a peace with the *English*, viz.

“ I marched out of my Country, to attack, and  
 “ drive the *English* out of their possessions in the  
 “ *Carnatic*; in which attempt I have expended a  
 “ vast treasure.—I invited the *French*, but, since  
 “ their arrival, have never received any assistance  
 “ from them: however, should I recover, I think  
 “ I could finish what I have begun. I have raised  
 “ myself to the Nabobship of *Seringapatam*, esta-  
 “ blished a great name, and conquered many  
 “ countries: I therefore desire you will not bring  
 “ disgrace upon my name, *you will make peace*  
 “ *with the English*, and return with your army to  
 “ *Seringapatam*, and establish yourself in the go-  
 “ vernment. *I think there is no reliance to be put*  
 “ *upon any assistance from the French*; but, should  
 “ their ships arrive in a month, or forty-five days,  
 “ you may join them; but weigh all matters well,  
 “ do nothing rashly, and consider whether or not  
 “ you can effect my plans. When you make peace,  
 “ give large bribes to the *English* officers; and pro-  
 “ cure the fort and districts of *Poodecotah*, be-  
 “ longing to the *Trichinopoly* Country, and the hill  
 “ and districts of *Halypady*, belonging to the *Vellore*  
 “ Country.—You must have it stipulated in the  
 “ treaty with the *English*, that they are to grant  
 “ you assistance, whenever you require it.—You  
 “ will also take possession of the Forts of *Mabé*,  
 “ and deliver them over to the *French*.”

A letter

A letter from Lord *Macartney*, dated 25th *March*, 1783, stating that *Tippo Saib* marched to the Westward the beginning of that month, for the purpose of recovering the province of *Bidonore*, which had lately surrendered to Gen. *Matthews*, and for preserving his other dominions, which he was in danger of losing, by the attacks of his enemies, or the revolt of his subjects—that a body of troops was stationed in the *Circars*, another in the provinces to the Southward of the *Coleroon*—that the *Circar* revenues maintained the former, and the resources of the other were drawn from *Tanjore*, and from the revenues collected under the Nabob of *Arcot's* assignment, which had at length been productive, notwithstanding the counteraction it had met from the Nabob's officers and servants—that the assignment had furnished likewise some resources to *Fort St. George*, which were the more necessary, as the remittances from *Bengal* had by no means kept pace with the increase of their expences.

A letter from Mr. *John Hutchinson*, Chief of the Factory at *Anjengo*, dated 19th *July*, 1783, giving an account of the success of our army on the *Malabar* Coast, particularly of Gen. *Stuart's* success in the attack of *Cuddalore*; but that hostilities had ceased, by news arriving of the treaty of peace between *England* and *France*.

The 13th, 14th, 15th, and 16th articles of the Definitive Treaty of Peace concluded at *Versailles*, 3d *September*, 1783, were read for the purpose of shewing that they held forth that protection to *Tippo Saib*, which his own forces could not give him, and that having heard of the Preliminary Articles,

he



he must, of necessity, have concluded a peace with the *English*.—The 16th article stipulates that, if within the term of four months, the respective allies of their *Britannic* and Most Christian Majesties shall not have acceded to the present pacification, or concluded a separate accommodation, their said Majesties shall not give them any assistance, directly or indirectly, against the *British*, or *French* possessions, or against the ancient possessions of their respective allies, such as they were in the year 1776.

The Counsel then proposed to call several witnesses to prove, that all letters wrote to *India*, relating to war and peace, and relating to the revenues, and the government and management of the Company's affairs in *India*, subsequent to the Regulating Act in 1773, were regularly communicated to, and laid before his Majesty's Ministers for the time being, and received their approbation before they were sent; but this head of proof was stopped by the House, as unnecessary to be gone into, because the fact was notorious.

The Counsel then called witnesses to prove what personal property the Company are possessed of at home and abroad, to shew their situation up to the latest periods to which their accounts are carried.—For this purpose

*Samuel Nicol*, Esq. Accountant,

*Mr. John Annis*, Auditor of *Indian* accounts,

*William Harris*, Esq. Treasurer,

*Mr. James Bigger*, a Clerk in the Treasury, were severally examined to various articles of the account; but the proceeding to a proof of the whole account in detail was stopped by the House; and

these different officers proved that the account which had been printed by the Company and delivered to the Lords was a correct and true account, taken from the Company's books, and from estimates made up in the usual manner of these kind of accounts; and one of the accounts, signed by the Accountant and Auditor, was delivered and laid upon the Lords' table, by which it appeared that the balance in favour of the Company was £.3,968,481.

The *Counsel* proposed to prove the particulars of the Company's probable receipts and payments up to the 1st of *March*, 1786; but this being also stated in the printed account, the detail of the proof was stopped, and Mr. *Nicol* the Accountant was examined in a general manner, and proved the printed account of receipts and payments, according to the best of his judgement and belief, to be correct.

The next head of proof was to shew that the Company's present temporary distress hath arisen from losses and expences occasioned by the late *European* war.—To this purpose Mr. *Nicol* proved that the amount of freight and demurrage, exceeding the peace-rate of freight and demurrage paid or payable by the Company, is as follows:

		£.
That there has already been paid, exceeding a peace freight and demurrage		788,000
Extra-freight to become due before the		
1st of <i>March</i> , 1784	- - - -	380,000
Ditto, after 1st of <i>March</i> , 1784	- -	740,000
Cargoes lost during the war, occasioned by the war	- - - -	753,217
D		Three

Three ships presented by the Company  
to the Public - - - - -

95,349

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£.2,756,564

The proof then given was to shew the resources of the Company to discharge their *English* debts.

Mr. *Nicol* proved that there are fifty-five ships abroad, forty-five of which are due in this present year, (1783) and 1784; that all the cargoes of these ships are provided and paid for, except a draught from *China* of about £.680,000, and that the cargoes of the ships will produce upon the sales in *England* £.7,940,000.<sup>a</sup>

The advantages arising to the Public from the trade carried on by the *East-India* Company was shewn in a proof of the number of ships and *British* subjects employed at home and abroad, and the export of *British* manufactures, to the amount of £.500,000 a year.

Proof was given of the exertions made by the Presidency of *Bengal* in supplies to the Presidencies of

of

<sup>a</sup> Proof was prepared to have been given, but in the hurry of the business was omitted, to shew the state of the civil and military establishments in *India*, and the surplus revenue remaining for the discharge of the *Indian* debts, and for an *European* investment.

The peace civil and military establishments are as follows:

At *Bengal* 2,010,000.

*Madras* 730,000

*Bombay* 356,000

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£.3,096,000

This sum deducted from the whole of the Company's *Indian* revenues, will leave an annual surplus of £.1,664,523.



6f *Bombay* and *Fort St. George*, towards the *Mahratta* war and the war of *Hyder Ally*.

Mr. *John Annis* proved that the money £.  
and other supplies sent from *Bengal* to  
*Bombay* from the 30th of *April*, 1778,  
to the 1st of *November*, 1780, amount-  
ed to - - - - - 3,744,967

That the supplies sent to *Fort St.*  
*George* from the 21st of *July*, 1780,  
to the 31st of *December*, 1782, a-  
mounted to - - - - - 2,819,774

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£. 6564,741

Minutes made by Mr. *Hastings*, Governor-General of *Bengal*, and by Mr. *Macpherson*, one of the Council, entered upon their consultations dated the 12th of *December*, 1782, proved that improvements have been made in the revenues of *Bengal*, and savings in the collections and in the purchases of the Company's *European* investments, amounting annually to upwards of £.1,000,000.

To disprove the charge of mismanagement in the revenues, and of misconduct injurious to the natives respecting the collection thereof, a body of written evidence of considerable length was laid before the House; the particulars whereof, on account of their length, are not thought to be material to be inserted in this publication.—They tended to shew that, after the Company had first obtained the *Dewanee*, they continued for a time the same mode of collection and administration which then subsisted; but finding that the administration of the *English* in the provinces under the Company's imme-

diate controul, of which they were possessed before the Dewannee was obtained, had produced a prosperity to the Company and the inhabitants far superior to the other parts of the provinces, they were induced to extend this mode of administration throughout.—That savings were made in the expences of collection to the amount of £.140,000 a year, and wise regulations adopted for the administration of justice among the natives of *India*; in which several measures the prosperity and happiness of the natives has been consulted; and their present situation is far superior to what it was under the native governments.—To these purposes the following written evidence was given, viz.

*August 28, 1771*—Letter from the Court of Directors to the Governor and Council of *Fort William*, in *Bengal*.

*November 23, 1773*—Minutes of consultation of the Governor and Council of *Fort William*, in *Bengal*.

*February 9, 1781*—Minutes of consultation of the Governor-General and Council of *Bengal*.

A comparative view of the expences of collecting the revenues in the *Bengal* year 1186 to the new establishment of the revenue-department 1779—80.

Regulations for the administration of justice brought to perfection in 1781—on account of their length, a printed copy of them was laid upon their Lordships' table.

*The evidence being closed, the Counsel proceeded as follows.*

Mr. DALLAS.

**M**AY it please your Lordships to favour me with the attention of the House, on the part of the *East-India* Company, against a Bill upon your Lordships' table, intituled, *An Act for establishing certain Regulations, for the better Management of the Territories, Revenues, and Commerce of this Kingdom in the East-Indies*;—but, my Lords, which a Petition from the *East-India* Company, in consequence of which, I am now to trouble your Lordships, states to be a Bill abolishing their most valuable privileges, and disseising them of the possession of their property, without any specific accusation; a proceeding contrary to the most sacred right of *British* subjects, that of being heard and tried upon a specific charge, before judgment is passed upon them in any case whatever.

And, my Lords, upon an occasion of so much public concern, and of the last consequence to the *East-India* Company, when not any one favourite right or peculiar privilege is in danger, but their very existence is at stake, and a Bill is depending before your Lordships, to subvert their constitution from its foundations, I ought to apologise for presuming to appear, for the first time, at your Lordships' bar. This apology is rendered more necessary, because my present appearance is in consequence of the task having been declined by a Gentleman, in whose experience and wisdom the *East-India* Company would have found the most strenuous and able support. My Lords, the Gentleman to whom I allude, declined to appear against the present Bill, because the time was too short for that preparation which the importance of the subject required. Under



these circumstances, I have no doubt but I shall receive your Lordships' utmost indulgence; and that any failings of mine, will be amply compensated to the *East-India* Company, by the wisdom and by the justice of the House.

There is now upon your Lordships' table, all the evidence which the *East-India* Company think it proper to produce upon this occasion. If the Bill before your Lordships contained any specific charge, if it stated any particular act of delinquency, the evidence with which the *East-India* Company have troubled your Lordships, would have been confined to refute that charge, and to disprove that delinquency. But when your Lordships consider, that it is the complaint of the *East-India* Company, that no specific charge is urged against them; but that, if this Bill should pass into a Law, they will be dispossessed of their property, and stripped of all their rights upon general accusation, your Lordships will perceive, that the evidence must necessarily be general in its nature; and I trust your Lordships will be of opinion, that there has not appeared any intention to waste your Lordships' time, or to protract the fate of the Bill, by the production of unnecessary and irrelevant evidence. I desire to rest the defence of the *East-India* Company, against any such charge, upon the decision which your Lordships shall form, with respect to that evidence, when your Lordships have compared it with the occasion.

My Lords, the course which the *East-India* Company have pursued, in not attempting to waste your Lordships' time, by the production of inapplicable evidence, that course I shall now follow, in trespassing as shortly as I can upon your Lordships' attention, on this important

portant occasion; and in offering no observations to the House that do not strike me as strictly applicable to the Bill upon the table.

My Lords, it is not, therefore, my intention to deduce the titles of the *East-India* Company to their present rights and possessions, through that long series of Charters, granted by various Monarchs, and confirmed by repeated Acts of Parliament, obtained for valuable considerations, reaching down from the reign of Queen *Elizabeth*, almost to the hour in which I address your Lordships. It is sufficient for me to know that these Charters are evidence, upon your Lordships' table, of the corporate rights of the *East-India* Company, granted and confirmed, from time to time, for great and valuable considerations; and that, when your Lordships shall examine the clauses vesting such rights, you will find they are conveyed to the *East-India* Company, in terms as strong as language can supply, and secured by obligations as binding as faith can impose. Neither will I detail to your Lordships, what, at different times, has been the price for which these Charters have been granted and confirmed. It is not to noble and disinterested minds, and such I have the honour to address, that it is necessary to urge considerations of a base and of a mercenary nature. These Charters are Solemn Covenants, entered into between the Public and the *East-India* Company, which receive their sacred principle from the public faith; and which, whether the Public have freely granted, or sold for a valuable consideration, your Lordships will feel to be equally inviolable, unless it shall appear that the conditions upon which they

were granted have been broken on the part of the *East-India* Company.

But without recapitulating the various Charters which the Company possess, or dwelling upon the price for which they were obtained, one fact will necessarily attract your Lordships' attention upon the consideration of this part of the subject. These Charters have each been granted for a short and limited term, and renewed upon the expiration of that term. My Lords, for what purpose were they granted for a short and for a limited term, but that the State might have the experience of that term to ascertain whether the powers thus granted were conducive to that purpose for which all delegated powers are necessarily granted, and to which they must ultimately tend, the public benefit? If, therefore, from time to time, these Charters have been renewed upon their expiration, from the first Charter down to the last Act of Parliament, I am warranted to assert, before your Lordships, that they have been renewed upon actual experience of benefits resulting to the State, from the wise administration of the *East-India* Company's affairs. Nor is this merely reasoning warranted by the occasion. If your Lordships will refer to the Preamble of each Charter, granted from the reign of Queen *Elizabeth*, down to that of *William*, and from that time, down to the latest period, you will find, that it stands recorded in express terms, that the *East-India* Company have long been a corporation, to the honour and to the profit of the Kingdom.

My Lords, this great corporation, originally instituted for commercial purposes, by the wisdom of their councils, and by the vigour of their arms, had acquired extensive possessions on the Continent of *Indostan*, previous



vious to the year 1765, when an event happened which necessarily induced a material change in their situation: Your Lordships undoubtedly perceive, I refer to the acquisition of the Dewannee, and of extensive territorial possessions to which the rights of sovereignty were annexed. My Lords, it was at that time at least plausible to assert, that the powers which the *East-India* Company possessed, were granted only for the purposes of Commerce; and that the Legislature could not have in its contemplation, to give them the right of acquiring territory, and to vest in them the management of a mighty Empire. In truth, it was a new situation, and required the most serious attention of the Legislature. Accordingly, soon after the acquisition of the territorial possessions, an enquiry was instituted into all the circumstances of an event so important to the State; all the information which could enable the Legislature to decide in what manner these territories were acquired, their value and extent, how they might most advantageously be governed, was fully communicated; and the result was an Act of Parliament, (7th *Geo. III.* Chap. 57) to continue the possession and administration of these territories in the *East-India* Company, upon the payment of an annual sum to the State, of four hundred thousand pounds, out of the revenues. My Lords, this Act, passed, as your Lordships perceive, after enquiry and deliberation, was to exist only for a period of two years, undoubtedly, upon the principle I have already stated to the House, that the experience of that period might ascertain the policy of the Law. My Lords, when this Act expired, so little was the conduct of the *East-India* Company liable to the charge or the suspicion of mismanagement, and so clearly did it appear that

that the exercise of commercial with political powers, instead of being incompatible and ruinous, had proved wise and beneficial to the State, that another Act of Parliament (9th *Geo. III.* Chap. 24), passed to prolong this agreement, for a farther period of five years. My Lords, this Act, which expired in the year 1779, was by subsequent Acts continued till the year 1781. In the year 1780, the Company's Charter had expired, and they received the proper notice from the Speaker of the House of Commons, that the Public would pay off the debt due to them,\* and redeem the exclusive trade. And now permit me to draw your Lordships' attention to this striking fact:—the expiration of the Company's Charter.

My Lords, if great and enormous abuses had long prevailed in the management of the *East-India* Company's affairs, if reason suggested, or if experience had ascertained it to be impolitic for the State to continue the management of the territorial possessions in a Company of Merchants, now the period was arrived when any alteration of system might have been made, without an injury to public faith, or a violation of private rights. The contract was at an end, and the parties who had contracted stood upon equal and independent terms. My Lords, it is in evidence before your Lordships, that no orders had been transmitted from this country, important in their nature; nor had any material event taken place in *India* since the year 1773, but what had been regularly communicated to his Majesty's Ministers. The Legislature, therefore, was apprised, through the constitutional channel, of the actual state of the *East-India* Company, and of their management, as well in *India* as in *Europe*. Is it then consistent to suppose, or rather,

rather, is it not a libel upon the wisdom and justice of the country to suggest, that in the year 1781, the Legislature should, for a valuable consideration, pass an Act, to continue, for ten years longer, the Charter of the *East-India* Company, and that, in the year 1783, upon the ground of that information which they possessed in the year 1781, they should pass another Act to violate all the rights conferred by that Charter, and confirmed by that Act of Parliament? If disorders had at that time existed, constituting the necessity, which is the principle of the present Bill, the Legislature could never have renewed, for a period of ten years, the Charter of the *East-India* Company, who had been guilty of such gross and dangerous mismanagement; but, on the contrary, they renewed that Charter, confirming all the rights of the *East-India* Company, in the most express and absolute terms; and, my Lords, I am therefore warranted to conclude, that in the year 1781, when the Charter was last renewed, there existed no necessity of the nature now alledged; and that, consequently, that period of time, during which the disorders have taken place, constituting the necessity, is from the year 1781 to the present time. To this contracted period, your Lordships' attention must therefore be confined; and, my Lords, many and great disorders indeed must be crowded into this little space, to warrant such a measure as the present Bill.

My Lords, I am therefore to request, that your Lordships will bear in mind, that the rights which the *East-India* Company possess, and which the Bill upon your Lordships' table has, for its purpose, to destroy, are not rights merely derived from ancient Charters, granted previous to the acquisition of the territorial possessions,



possessions, but continued to them at a period long subsequent to the acquisition of those possessions, renewed and confirmed to them for a valuable consideration, so late as the year 1781; and, my Lords, the *East-India* Company claim, for the protection of their rights, the sanction of an Act of Parliament passed in that year.

Having troubled your Lordships with these general observations upon the various Charters of which the Company have been possessed, and the different Acts of Parliament confirming them, it may be proper to state to your Lordships, what is the system constituted by these Charters, which, by the present Bill, your Lordships are called upon, not to regulate and reform, but utterly to annihilate and destroy.

My Lords, the system for the management of the *East-India* Company's affairs is, in the general outline, that which I shall immediately state to your Lordships.

—The executive government is in the hands of twenty-four Directors, possessing a considerable stake in the general fund, and elected by a majority of the Proprietors assembled for that particular purpose. They constitute the ordinary executive government of the *East-India* Company, assembling, almost from day to day, for the administration of its affairs.

The Proprietors, at large, possess a right of assembling from time to time, in their general Courts, to inspect the state of their accounts, to watch over the conduct of their servants, to enquire into the management of their affairs, and to exercise, where they think fit, a controul over the Court of Directors. Thus, my Lords, stood, with various internal regulations, the constitution of the *East-India* Company; the Directors, elected by the Proprietors, and removable by them,  
constituting

constituting the executive government, and the Proprietors possessing controul over all proceedings. My Lords, this system existed, undergoing some minute alterations as the change of circumstances rendered necessary, from the first institution of the *East-India* Company till the year 1773—and your Lordships may not perhaps think it politic to destroy, without any consideration, a system under which the *East-India* Company has grown up to its present size and strength, nor to treat, as contemptible and absurd, principles of government which have enabled it to perform such material services to the State, and to acquire an empire which, in this season of public calamity, the nation fondly considers as the most valuable possessions which remain for its support.

In the year 1773 an Act of Parliament, generally known by the name of the Regulating Act, introduced material changes into the system I have described. In order to give a principle of stability to their administration, the Directors who were eligible annually were to be elected for four years; to prevent collusive transfers for the purpose of the day, the right of voting at the election for Directors, and in the general Courts to which every proprietor possessed of five hundred pounds of stock was entitled, was now restricted to the proprietors of one thousand pounds; and the term of six months for the possession of that stock, as necessary to enable them to vote, was extended to the term of one year. But without detaining your Lordships with an exact enumeration of all the provisions of the Act, unnecessary for the present purpose, there is one clause which I feel to be so material  
that

that I must necessarily trouble your Lordships with reading it at length.

“ And the Court of Directors of the said Company or  
 “ their successors shall, and they are hereby directed and  
 “ required from time to time, before the expiration of  
 “ fourteen days after the receiving of any such letters  
 “ or advices, to give in and deliver unto the High  
 “ Treasurer or Commissioners of his Majesty’s Trea-  
 “ sury for the time being, a true and exact copy of such  
 “ parts of the said letters or advices as shall any way  
 “ relate to the management of the revenues of the said  
 “ Company; and in like manner to give in and deliver  
 “ to one of his Majesty’s principal Secretaries of State  
 “ for the time being, a true and exact copy of all such  
 “ parts of the said letters or advices as shall any way re-  
 “ late to the civil or military affairs and government of  
 “ the said Company; all which copies shall be fairly  
 “ written, and shall be signed by two or more of the Di-  
 “ rectors of the said Company.”

Thus your Lordships perceive, that from the year 1773 there has existed a superintending power in the executive government of this country over the administration of affairs in *India*; and that all abuses which have existed since that period, down to the present time, must have been known to his Majesty’s Ministers, unless that has happened, of which there is no charge against the Company, that the information enjoined by this Act to be communicated has been contumaciously withheld.

My Lords, in the Act of Parliament which passed in the year 1781, this power of superintendence is continued and enlarged; and by the clause which I shall now read to your Lordships, an absolute controul is  
 given



given over all matters that relate to transactions with the country-powers, or to war and peace.

“ And be it further enacted, by the authority aforesaid, that the Court of Directors of the said United Company shall, and they are hereby required and directed to deliver to the Commissioners of his Majesty’s Treasury, or any three or more of them for the time being, or to the High Treasurer for the time being, copies of all such letters and orders as shall or may any way relate to the management of the revenues of the said United Company, fourteen days at least before the sending or dispatching of such letters and orders respectively; and in like manner shall deliver to one of his Majesty’s Principal Secretaries of State, copies of all such letters and orders as shall or may any way relate to the civil and military affairs and government of the said United Company, to any of their servants in *India*; and such copies shall be signed by two or more of the Directors of the said United Company; and that the Directors of the said United Company shall, and they are hereby required to pay due obedience to, and shall be governed and bound by such instructions as they shall receive from his Majesty by one of his Majesty’s Principal Secretaries of State, so far as relates to the conduct of the said United Company, and their Governors, Presidents, and Councils respectively with the country-powers in the *East-Indies*; and also to the levying war and making peace, in such order as the said Court of Directors shall thenceforth give to the Governor and Council of their Presidency of *Fort William*, in *Bengal*, and also to their President and Council in the other settlements

"lements respectively, belonging to the said United  
 "Company: Provided, nevertheless, that in case the  
 "Secretary of State, to whom the copies of such let-  
 "ters aforesaid shall be delivered, shall not, within  
 "fourteen days after the delivery thereof, communicate  
 "such orders and instructions as aforesaid in writing  
 "to the said Court of Directors, then and in such case  
 "it shall and may be lawful for the said Court of Di-  
 "rectors to dispatch and send such orders to their  
 "servants in *India*, in such manner as they shall think  
 "fit."

With these powers of superintendance and controul  
 lodged in the executive government of this country,  
 the valuable interests of the nation, as far as they are  
 connected with the prosperity of the *East-India* Com-  
 pany, cannot be injured but by the culpable neglect of  
 those whose misconduct must equally affect every other  
 part of the empire. If, therefore, the rights which the  
*East-India* Company possess cannot be exercised to pre-  
 judicial ends without the concurrence of the executive  
 government, there already exists that power of con-  
 troul which is necessary to the purpose of self preser-  
 vation; and where is the necessity to destroy these  
 rights, which is the object of the Bill upon your  
 Lordships' table? My Lords, in the first place, it is a  
 Bill to abolish the Court of Directors.

My Lords, upon what necessity stated in the pream-  
 ble of this Bill, and apparent to your Lordships, is the  
 executive government of the *East-India* Company thus  
 arbitrarily to be destroyed? What are the charges  
 alledged against the Court of Directors in justification  
 of such a measure? I may safely, my Lords, assert,  
 upon the authority even of their accusers, that the Di-  
 rectors

rectors of the *East-India* Company have transmitted to their servants in *India* such orders as are honourable proofs of their morality and wisdom. It is in evidence upon your Lordships' table, that they have not only strictly obeyed the provisions of the Act of Parliament commanding them to communicate certain information, relative to their affairs, to the proper officers of the Crown, named in the Act; but that they have even gone beyond the line of their duty, and in their zeal for the public service, being desirous that no material event should take place in *India*, which might ultimately affect the interests of this country in consequence of orders, unknown to his Majesty's Ministers, they have regularly conferred with them upon every important occasion; and when I was prepared to call in the evidence of the different Gentlemen who have filled the chair of the *India* Company from the time of passing the regulating Act to the present day, in order to prove this fact, your Lordships were spared the trouble of hearing such evidence, by the House consenting to admit it as a truth. In this part of their conduct, the Court of Directors are therefore entitled to the praise, and to the commendation of your Lordships. But if it shall be urged against the Directors of the *East-India* Company, that they have not recalled those servants of the Company who have disobeyed their orders, let this charge be enquired into; and if guilty of a criminal negligence, in the execution of a public trust, they are amenable in their persons to the tribunals of the country, and are individually answerable for their misconduct. But in the peculiar instance of the recal of Mr. *Hastings*, the Court of Directors, in obedience to the resolution of the House of Commons,

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voted



voted his recal ; and if there is guilt in having continued him in his present situation, the Court of Proprietors are alone to be censured.

My Lords, with respect to them, I cannot, it is true, boast to your Lordships of the same implicit reverence and dutiful assent to the resolution of the House of Commons. It is undeniably true, that after a resolution had passed that House, declaring it to be the duty of the Court of Directors to recal Mr. *Hastings*, and that a majority of the Court of Directors, in conformity to such resolution, actually voted his recal, that the Court of Proprietors interposed, and prevented the Court of Directors from carrying that resolution into effect. But what is the extent of the present charge? That they have disobeyed a resolution of the House of Commons. I stand upon constitutional ground, and I assert the privileges of every *British* subject, when I contend that obedience was not a duty upon such an occasion. They were only bound to respect the resolution of the House of Commons in-as-much as it agreed with the dictates of their own reason. If the Court of Proprietors possess a right to controul the Court of Directors, it is mockery to say, that the exercise of that right shall not attend the possession of it. Will your Lordships consider what a daring outrage is offered to the Constitution, by those who contend that a resolution of the House of Commons is binding in itself? What becomes of the boasted right of petitioning? Could the *East-India* Company have petitioned against this resolution of the House of Commons? No ; if they had attempted such a measure, they would have been told, A resolution of the House of Commons is but preparatory to a Bill ;  
and

and when that is brought in, you shall be heard at the bar of this House in defence of your conduct. But it would be the grossest tyranny and oppression, if, because the Court of Proprietors, considering the due course of the administration of the laws, have waited for that period when a Bill should be brought into the House of Commons, grounded upon the resolution, then to make their defence, and to shew that they have conscientiously and wisely exercised a right which they lawfully possessed, the Bill shall not afford them that opportunity, and disobedience to the resolution shall be necessarily construed into an act of delinquency. If this doctrine be just, the journals of the House of Commons are the statute books of the land; and to what purpose is it necessary for your Lordships to assemble? But sentiments like these will meet with the reprobation they deserve; and whether the Court of Proprietors have done right or wrong in resisting the resolution of the House of Commons, is a question, that your Lordships will feel to depend upon a full investigation of all the circumstances which induced that resistance. My Lords, I am warranted to say, that it is the earnest desire of the Court of Proprietors that these circumstances should be accurately and fairly enquired into, and that the conduct of Mr. *Hastings* may receive a full and open discussion. With respect to Mr. *Hastings* himself, such an investigation is the warmest wish of his soul. Let him meet his accuser, and day-light shall be his only prayer. But do not let him perish by dark and secret accusations, brooded over and hatched in holes and corners! Nor deprive him of that benefit, which the most atrocious criminal cannot forfeit, the benefit of a fair and impartial trial.

Yes, my Lords, the day will, I trust, arrive, when that trial shall take place; when the accuser shall face the accused; when assertion shall yield to proof, and falsehood be silenced with shame. Soon or late the purposes of oppression shall be discovered; the tide of public indignation turned upon the oppressors; and the injured, persecuted individual, shall find a friend in every man of humanity, and a protector in every man of spirit.

But, my Lords, admitting that the Court of Proprietors have, in the present instance, improperly continued Mr. *Hastings* in his government, in opposition to the resolution of the House of Commons, why is not a Bill introduced to enforce that resolution? Mr. *Hastings* holds his situation under an Act of Parliament, and may be removed from it by the same means. The power that created can destroy. An improper exercise of the right would constitute a necessity adequate to the principle of such a Bill, but can never justify the enormous violation which the present Bill attempts. Or even, if the possession of such a right were deemed incompatible with the public welfare, a Bill to take away this power of controul would be the utmost extent of violation, which the most apparent necessity of such a case could warrant. But the Bill upon your Lordships' table is a general abolition of all the rights of the *East-India* Company; and it is but mockery and insult in those who assert, that this Bill does not confiscate their property, but only commits the administration of it to those who will manage it for them with the most advantage. It was not the object of the Charters of the *East-India* Company to bestow property, but to annex rights to the possession of property,



property, and to secure that possession; and by the present Bill all these rights are destroyed, and the possession of their property absolutely wrested from them.

Having said thus much with regard to the conduct of the Court of Proprietors, in the instance of having resisted the resolution of the House of Commons, I shall next advert to some general objections that have been urged against the existence of this Court; not stating any abuse of its powers, but defects in its formation; and alledging evils to exist in its constitution, which are urged as arguments for its extinction. It has been asserted, that the Court of Proprietors, without being able to possess, from the nature of their pursuits, any correct knowledge of their own political and commercial concerns, have it in their power to interfere, from time to time, with the management of the Court of Directors, and by frequent and factious meetings to distract their attention, and controul them in the exercise of powers for which they must be ultimately responsible. Whether this power has been improperly made use of, I appeal to experience, the most unexceptionable testimony upon this occasion. If the instances, in which the Court of Proprietors have interfered with the Court of Directors, could be in evidence upon your Lordships' table, it would most plainly appear, that they are neither so numerous as to afford any ground for the objection, nor of a nature to prove any improper controul. But the advantages resulting from the existence of such a Court must be obvious and apparent to your Lordships. In every government in which there is necessary tendency to corruption, and which no laws can altogether restrain, that is a wise system of government which imposes numerous checks;

which subjects every measure to open discussion; which places in the light of day all the transactions of power, and exposes the immediate possessors of it to the public eye.

Thus far are the powers of the General Court to be justified upon principles of policy and wisdom. But it is said, the Court of Proprietors is, in truth, no longer what it originally was, an assembly of plain and honest merchants meeting together to debate upon commercial concerns, and delivering their opinions fairly and conscientiously with regard to the stake they possess in the public fund; but that it consists, at the present day, of two classes of men; one formed of the above description; and the other, of men sent there for political purposes, and to answer private ends, without any regard to the interest of the Company: That in this Court the servants of the Company preclude all enquiry into their own conduct, and acquit themselves, when accused, by distributing corruptly the fruits of their guilt to those who are to try them, and, in effect, by sitting in judgement upon themselves. It is undoubtedly impossible, under a popular form of government, to exclude every person who may come with corrupt views, and assemble with bad intentions. But it is sufficient for your Lordships to be convinced that these are objections which must prevail in some degree against all such forms of government, and that such disorders are the price of the advantages they afford. That they do not prevail in any inordinate degree, I may safely affirm, when no proof whatever is before your Lordships even to ascertain their existence, and they are supported only by the assertions of the advocates for this Bill. But if the  
existence

existence of partial disorders in any system can justify a total subversion of it, where is the system of government that can exist? Let me suppose, merely for the purpose of argument, and what your Lordships will see is but a wild chimera, similar objections to have been urged against that House through which this Bill has passed. Let me imagine it to have been said (how falsely, it must strike your Lordships) “The House of Commons is no longer what the constitution intended it to be, an assembly of upright and independent Senators, holding their seats by the tenure of substantial property, and meeting to deliberate upon national concerns honestly and conscientiously, from regard to the welfare of their country, but a concourse of factious and interested men, assembling with private views.—It is a field where hostile factions are drawn up in array against each other, and where hirelings and mercenaries carry on a war of plunder for the spoils of the country. They assemble from day to day to distract the attention, and to weaken all the efforts of the executive government, while the servants of the public rule by bribery and corruption, and by sitting in judgement upon themselves, set at defiance enquiry or punishment.”

My Lords, these are objections exactly similar in their nature to those which have been urged against the General Court. They are idle, it is true; but even if they were well founded, what would be your Lordships’ feelings, if a Bill were to be introduced into this House, not to correct and reform these abuses, but to extirpate that branch of the Legislature where they exist?

After having laid before your Lordships the necessary evidence in support of their rights, the *East-India* Company produced various accounts to ascertain the



nature and extent of their possessions and property, in the first place, to shew your Lordships, that no danger to the public credit, arising from the distress of their situation, can constitute a necessity for the present Bill; and in the next, that in case any necessity, of which they are not aware, renders the seizure of their property unavoidable for the public welfare, your Lordships may know the extent of that property, in order to measure the compensation which the Company must receive.

I shall not weary your Lordships' attention with a recapitulation of the various grants of territory and revenue, which, from time to time, have been made by the different *Indian* powers to the *East-India* Company. It will be sufficient for the present purpose, to refer your Lordships to the account upon your table, entitled, *A General State of the Affairs of the East-India Company*, and to which the signature of their Accountant is affixed. In that account, your Lordships will find the Company's landed property, exclusive of the territorial revenues, produces an annual income of about eight hundred and eighty-one thousand pounds; a property to which the Public does not pretend to have any claim. With respect to the territorial possessions, which yield an annual revenue of about one million eight hundred and thirty-eight thousand pounds (subject to the charges of management) in the profits of which the State have, from time to time, participated; how those territorial possessions were acquired, is a question upon which I am not now to trouble your Lordships, nor in whom the right to them may ultimately vest. Thus much, at least, is certain, that I am warranted to presume they were fairly and honourably acquired, because the State, upon full consideration of the subject, has not thought proper to pass

pass any censure upon those who made that acquisition ; but, on the contrary, to continue the territorial possessions in the management of the *India* Company, and themselves to partake of the advantages resulting from them. Neither is it material to consider in whom the right will ultimately vest ; for this much must be acknowledged, that, during the continuance of the present Charter, the *East-India* Company have a valuable term in those possessions ; and that, upon the expiration of this term, if they shall be adjudged, by due course of Law, to belong to the State, the *East-India* Company will have a claim upon the Public for their necessary disbursements in the acquisition of them. But it is material, that your Lordships should know and consider, that all the advantages and benefits resulting from the acquisition of these territories, have been hitherto, in effect, to the State, and not to the *East-India* Company. Your Lordships have it in evidence before you, that they were acquired by the *East-India* Company, at an expence of upwards of five millions sterling ; that they have paid to the State, from time to time, by way of participation, upwards of two millions, whilst they have only received one million four hundred thousand pounds ; and the territorial acquisitions stand indebted to the trading stock of the *East-India* Company, in the sum of three millions six hundred thousand pounds, exclusive of any interest upon the various sums expended. But these are not the only advantages which have resulted to the State from the acquisition of the territorial possessions. During a period of fifteen years, subsequent to the acquisition of these possessions, compared with a like period previous thereto, there appears to be an increase, in the annual amount of customs and excise, upwards of three hundred thousand pounds.

Besides

Besides the Company's landed property already stated, and the territorial revenues in *Bengal*, *Bahar*, and *Orissa*, they possess territorial revenues upon the Coast of *Coromandel*, upon which the Public have no claim, and which, with the Northern Circars, amount to an annual income (subject to the charges of management) of three hundred and fifty thousand pounds. The subsidy paid by the Nabob of *Oude*, and the tribute from *Banares*, amount to a further clear income of about, *per annum*, nine hundred and sixty-two thousand pounds; the subsidy paid by the Rajah of *Tanjour*, *per annum*, one hundred and sixty thousand pounds; the subsidy paid by the Nabob of *Arcot*, *per annum*, two hundred thousand pounds; annual revenue from salt in *Bengal*, about four hundred and fifty thousand pounds; annual amount of customs in *India*, two hundred thirty-six thousand three hundred and sixty-seven pounds; making a total of annual income, (the Company's landed property before stated, and the territorial revenues in *Bengal*, *Bahar*, and *Orissa* inclusive) of five millions seventy-seven thousand three hundred and sixty-seven thousand pounds. And upon the nearest calculation, the peace establishment of all expences, payable out of these revenues, will not exceed three millions ninety-six thousand pounds *per annum*; so that the remaining surplus will be applicable to the payment of debt, and the purchase of cargoes for *Europe*.

But it may be said, Tell us not of the number of your grants, and the extent of your possessions—Are you not in a state of bankruptcy and ruin; unable to pay the duties which you owe to the Public, and incompetent to discharge the debts which are due from you to individuals? The public welfare, essentially connected  
with



with your prosperity, is endangered by your mismanagement. It is become necessary for the Legislature to interpose, in order to protect the State; and in vain are your Charters urged against an interposition, which your own misconduct has rendered unavoidable. What are these feeble ligaments with which you would bind down the public arm, when raised for the purpose of self-preservation?—Shame upon the paltry plea! Yes, my Lords, shame be the portion of those who shall contend before your Lordships, that private rights are not to be postponed to the public safety, or that the interest of individuals is to impede the national welfare. It is not in the presence of your Lordships that I shall argue, that in a case of clear and imminent necessity, adequate to the principle of this Bill, the Charters of the *East-India* Company can arrest its progress. Compared with such a necessity, they are, as they have been called, but wax and parchment indeed! Wherever the State has granted exclusive rights and privileges, for a valuable consideration, if, from the operation of causes unknown, or not existing at the time of making such grant, they become inconsistent with the public safety, they may, and they ought to be revoked upon adequate compensation, and no Act of the State can stand in the way of such revocation, for the State cannot, in any instance, divest itself of the means of self-preservation. I therefore throw behind me the Charters of the *East-India* Company, and advance to that ground upon which the advocates for this Bill choose to rest it—the ground of public necessity, co-extensive with the principle of the Bill.

But in proportion to the importance of the rights which

which are to be violated, your Lordships will undoubtedly require the necessity to be strong, and the proof to be clear and undeniable.—Where are the proofs of any necessity existing, to justify the present Bill? Are the facts which constitute this alleged necessity stated in the preamble of the Bill now before your Lordships?

My Lords, the preamble states, “That Whereas  
“disorders of an alarming nature and magnitude, have  
“long prevailed, and do still continue and increase, in  
“the management of the territorial possessions, the re-  
“venues, and the commerce of this kingdom, in the  
“*East-Indies*; by means whereof, the prosperity of the  
“natives hath been greatly diminished, and the valu-  
“able interest of this nation in the said territorial posses-  
“sions, revenues, and commerce, have been materially  
“impaired, and would probably fall into utter ruin if  
“an immediate and fitting remedy were not pro-  
“vided—”

And now, my Lords, permit me to pause for a moment—and to ask your Lordships, whether, upon a preamble couched in such vague and general terms, containing no specific accusation, suggesting no positive charge, it is possible your Lordships, consulting your own dignity, and respecting the honour of your proceedings, can dispossess the *East-India* Company of their property, violate all their rights, and overthrow a fabric of government, which, during a period of near two centuries, has stood the test of time, and sustained the numerous shocks of adverse fortune?

That disorders have prevailed in the administration of the *East-India* Company's affairs, it is not for me to deny; neither will I ask your Lordships where is the  
government

government in which disorders do not prevail: but, if disorders exist so numerous and alarming as to constitute the necessity for this Bill, is it not easy to specify what are these disorders? The greater is the necessity, the more is it susceptible of proof. It is an absurdity to alledge, that disorders exist so great and numerous as to call for the interposition of the Legislature, to annihilate all the rights of the *East-India* Company; and yet, that the Legislature cannot condescend to any one specific accusation, or prefer any positive charge.

But, my Lords, admitting that disorders had prevailed, and to the extent described, is the present Bill that fitting remedy which your Lordships ought to apply? Do the crimes of individuals constitute the misconduct of the Corporation itself? and if disorders exist, are not the Laws in being adequate to correct them, if properly enforced? The same evidence which would enable your Lordships to vote the existence of these disorders, would be a just ground to proceed upon against the authors of them, by warranting an address from your Lordships to the Crown, to order a prosecution, at the instance of the State, against those who, having been placed in responsible situations, by their criminality or neglect have endangered the public possessions. But without even a single allegation of the insufficiency of the Laws in being, without a prosecution against any one of those who have offended against such Laws, without an attempt to carry their provisions into effect; your Lordships are called upon to repeal them, upon no other ground, than assertions that they have not been obeyed.

To assert in general terms the existence even of  
great



great and alarming disorders in the management of a distant part of the empire, is not to establish that necessity which alone can induce your Lordships to pass the present Bill. Such disorders are inseparable from the condition of things; they exist in the necessity of the situation, and are, to a certain extent, incurable by human wisdom. The present Bill cannot eradicate these evils from their native soil; but it may indeed transplant them to a fruitful hot-bed, where they will flourish and grow rank for every deadly purpose; to taint the essence of the constitution; to poison the source of freedom; to destroy the independence of Parliament; and to bring on that event which, it has been foreboded, if it shall ever arrive, must prove the ruin of our liberties, the legislative more corrupt than the executive power. If the disorders abroad have increased from the corruption of the government at home, what is the cure proposed by the present Bill? To abolish the General Court; to annihilate the Court of Directors; and to commit the charge of this corrupt government into the hands of seven persons named in the Bill, upon this wise and established principle, That the difficulties of corruption are in an inverse ratio to the number to be corrupted!

If the preamble to the Bill before your Lordships had stated any positive charge, the *East-India* Company would have had it in their power to defend themselves against that charge, and your Lordships to determine upon the evidence with respect to the truth of it. My Lords, I feel the objection, in itself, to be sufficient against the Bill, that it contains no such charge; but, anxious to disperse any doubts  
which

which may exist in your Lordships' minds, and desirous to afford every information to the House upon the actual state of their affairs, the *East-India Company* have combated the preamble to this Bill with the only evidence by which it could be opposed; accounts to disprove the conclusion drawn from the general assertions it contains, that the valuable interests of this nation, in the territorial possessions, revenues, and commerce, are impaired to a probability of ruin.

The account which will most immediately command your Lordships' attention, is that entitled, *A general State of the affairs of the East-India Company*.

My Lords, about the time the present Bill was brought into the House of Commons, assertions (where they originated is unknown) but assertions were circulated throughout the kingdom, that the *East-India Company* were in a state of bankruptcy, and owed eight millions more than they could pay. The effect of these assertions was indeed highly detrimental to the Company; for in the course of twenty-four hours it occasioned a fall of twenty per cent. in the value of their capital fund. In order to confute these calumnies, it became necessary for the *East-India Company* to shew what would be their situation under the worst event that could happen, and supposing that their bankruptcy were actually to take place. In such an account, your Lordships no doubt perceive, it is proper to state effects of every species whatever, because they must then be converted into the means of payment; and consequently the value of dead stock is a necessary article in this account, made  
up

up under the idea of an absolute stop to the trade. And, my Lords, it appears by this account, that after applying all their effects to the payment of their debts, there remains a balance in favour of the Company, amounting to three millions nine hundred sixty-eight thousand four hundred and eighty-one pounds, exclusive of their dead stock in *India*, valued, under Lord *Godolphin's* award, at four hundred thousand pounds; but upon which, the Company has since expended nearly seven millions sterling; and of the value of the landed property, their term in the territorial possessions, if not their absolute right to them, and the various subsidies which they annually receive. My Lords, the present situation of the *East-India* Company, is merely a state of temporary distress, prevailing in a very small extent, and proceeding from causes which I shall immediately state to your Lordships.

By an estimate of probable receipts and payments, carried on to the 1st of *March*, 1776, and upon your Lordships' table, it appears that, upon that day, there will be a balance in hand of one hundred forty thousand eight hundred and eighty one pounds. In this estimate, it is assumed that Government will postpone the customs which are due; and that the unaccepted bills falling due in 1784, and 1785, may be accepted at such time as shall throw the payment beyond the period up to which the estimate is made. All the assistance, therefore, of which the *East-India* Company stand in need, is a postponement of, at the utmost, one million five hundred thousand pounds, due, and which may become due, for customs, till their trade shall return into its regular channel, and  
such



such time to be allowed them by the Bill holders, as shall enable them to convert into cash the goods, for the purchase of which these Bills were granted. The latter indulgence the *East India Company* will undoubtedly receive; and with respect to the former, it may be granted without any danger to the Public; for it is in proof before your Lordships, that there are at the present time, and must ever continue in the Company's warehouses, goods to a much greater amount kept under the lock of Government, than the value of Customs to be postponed.

I shall now beg your Lordships attention to the immediate causes of this temporary distress; the interruption which the trade has received from the general war, and the effects it has necessarily produced by encreasing the demurrage and advancing the price of freight.

The arrivals of ships have been put so much out of their ordinary course, that only 8 arrived in 1782—9 in 1783; whilst 45, of which the cargoes already provided or paid for (except about 680,000*l.*) are estimated at 7,940,000*l.* are left to arrive in the ensuing year. The consequence of such a detention must be obvious to your Lordships, and the cause of it equally apparent.

But, my Lords, without entering into a minute specification of the price of various stores, and of different losses sustained by the war, and the exact proportion in which the freight has encreased; I will only beg leave to direct your Lordships attention to one fact apparent upon these accounts—  
The extra demurrage occasioned by waiting for  
F convoys

convoys amounts alone to more than all the postponed demand of Government, and with the increase upon freight will greatly exceed the extent of all the assistance required.—Thus far the distress of the *East India* Company arises from causes which they could not prevent, and not from the misconduct alledged in the Bill.

With respect to the Bills of Exchange, the expences of the war in *India* having exhausted the revenues, these Bills were consequently drawn to supply the investment. The expences of the Company's wars with the Country Powers have necessarily been considerably encreased, from the support afforded to those powers by the enemies of the State, and are therefore, in that degree, a consequence of the general war. But what are the advantages which the State has derived from the manner in which the war in *India* has been conducted by the *East India* Company? While in every other part of the British dominions, your Lordships have beheld with humiliation and shame, hostile banners planted upon your proudest forts, and waving over your richest possessions, in *India* alone has success attended the exertion of your arms; a success which terminated in the absolute expulsion of the enemies of the State from the continent of *India*, where, at this moment, they would not possess a single fort, or factory, if the mismanagement at home had not rendered it necessary to surrender up the conquests of the *East India* Company to compensate for the losses of the State. I am not here to prostrate the

*East*

*East India* Company before your Lordships with prayers and supplications—Proud with pleas of merit, and bold with honourable pretensions, I do not claim the mercy, but I challenge the gratitude of the State! I address myself to those feelings which are inseparable from noble breasts; and if the *East India* Company, exhausted by great and glorious efforts in the public cause, is reduced to a state of temporary weakness, your Lordships will interpose to cheer and to revive its drooping condition; but not to put a dishonorable end to its existence.

I have now submitted to your Lordships what observations have occur'd to my mind with respect to the Bill before your Lordships, and the evidence which the *East India* Company has produced. I feel it unnecessary to dwell on all the minute parts of that evidence. This is not a question which depends upon a critical inspection of rights, or an exact admeasurement of property. It must be determined by the existence of striking facts, and the application of general principle—And your Lordships are now to decide, whether in the great view of this subject, that desperate necessity has been proved, which can alone warrant your Lordships to pass the present Bill? If your Lordships have no proof of any such necessity, in support of the Bill, and the evidence produced against it refutes even the presumption; if the state of the *East India* Company is not distressful in itself, but, compared with every other part of the Empire, prosperous indeed; if peace and tranquility (as appears by the last advices



from *India*) prevail; the streams of commerce returning into their ancient channel; the revenues in a state of progressive improvement;—then must the Bill upon your Lordships table appear a rash and unwarrantable attempt to violate the conditions of the most solemn Covenants in which the State is bound for a valuable consideration, to which your Lordships as one branch of the Legislature were parties, and are pledged in honour to maintain.

But before I retire from your Lordships bar, permit me to conclude with expressing the most perfect confidence in your Lordships truth and justice. It is not in the House of Honour, that apprehensions can be entertained in the cause of Publick Faith. The present Bill will be rejected by your Lordship with the indignation it deserves; and by resisting this dangerous attempt to destroy, without any just cause, the rights and privileges of the first Commercial Corporation in the universe, and thereby to render Parliamentary security of no avail, the enjoyment of all franchises uncertain, and the possession of property insecure—your Lordships will approve yourselves the zealous Protectors of private rights, and the sacred Guardians of the public Faith.

Mr.

## Mr. HARDINGE.

MY LORDS,

I AM Counsel for the Directors of the *East India* Company, and have the painful honor to support as an Advocate, rights which I feel as if they touched the nearest personal interest of my own: for, my Lords, tho' an obscure man, I am one of a community which is bond or free as the few pages in my hand shall find their way to the Records of Parliament, or be intercepted by the Guards of the Constitution placed in this House.

There are critical periods (and this I can too safely assume to be one of them) in which the office of an Advocate would be a curse and snare to public freedom, if he should fear to call Oppression by its name, from whatever hand it may come, till it has the weight and stamp of enacted law. Guilty of no such criminal fear, tho' a Minister great in office, and great beyond example in the ascendant of his personal character, moved for this Bill in the other House, with a purity of intention to which every possible credit is due, I took the liberty at the Bar of that House, in the face of that Minister, to accuse the Bill of injustice unexampled, and a death's blow to the liberties of the Government. A majority of that House, with motives no less pure, have passed the Bill; and yet, my Lords, at this Bar I draw the same picture of it.

SPEAKER. We don't know what passed in the House of Commons.

Mr. HARDINGE. Here then, my Lords, the Bill may sit for its portrait, and *here* at least I have no flattering colours to soften one shade of its deformity.

If I could suppose that your Lordships would pass the Bill, and it were competent for me, with this gown upon my back, to be heard at the foot of his Majesty's throne, I would there deprecate the impending blow, respect the *motives*, protest against the *act* with every possible exertion of mine, and at every personal hazard.

*Necessity*, my Lords, the assumed virtue of the Bill, is our unwelcome plea, if the tone of this appeal should be, like the injury which it meets, of the first impression here, if it should rise to a more animated strain than lighter occasions would claim or excuse.

Forgive me too, my Lords, if I breathe too pure an air in this place to lay what I should call an unbecoming stress upon the dignity of the parties concerned, upon their peculiar merit, upon the value of their stake, or upon the melancholy but sure conviction, that if the ruin should fall upon their head, the foundations of the Government will sink under it. I shall at least begin my address to your Lordships, with broader principles and with milder hopes. Let it be upon the shelf at present, and forgot, that I stand for corporate rights, acquired



quired in their infancy by that spirit of commercial adventure which is the right hand of our political strength;—forgot, that charter upon charter to this Company have been purchased by contract for value;—that we have enriched our wealth by theirs, and raised our national honour by their services in the field—*achievements* unequalled in the history of the world, and *services*, how compensated? By an act of injustice which a perfect stranger, a beggar at your door, would feel as an insult, and would be sure at this Bar to repel with effect. Let it only be remembered, that I plead for twenty-four individual subjects of *Great Britain*, stripped of their legal franchise without one shadow of specific imputation proved, or stated against them; and if this can be said with truth, let me ask, where is that property, personal freedom or character, where is the limb or life that innocence may insure to any of us for an hour?

On the other hand, Counsel against every material word of this Bill, may I not assert the liberty of examining the enactment, as well as preamble of it; and the enactment in all its parts,—the forfeiture imposed,—the power assigned,—and the new hand intrusted with it? May I not examine the *safer custody* (as it is called) of this jewel taken with so little ceremony from the owner's hand, in order to be “*better kept for him by others*”—by seven—what shall I call them?—*Commissioners of Lunacy and Com-*

*missioners of Bankrupt*—by seven *Guardians* of this *Political Infant*, who are to make him a cypher for his own good four years, and at the end of that period, *if they abuse it*, let him be of age? The policy of this Bill is the sole plea attempted in support of it.—May I not meet that policy, and grapple with it? May I not set upon the other side of the account a despair of the public safety if such a Bill should pass? May I not plead against it from history, from the first principles of our Constitution, from the jealousy of this House against precedents injurious to common right; and most of all, from the natural frailty of the human character, tempted by that strumpet Power, seduced by the impunity of wrong, and corrupted by the wages of it? In self-defence, those for whom I plead are *politicians* here. As *culprits*, they must leap in the dark; at least I can see no hint of a charge which they are bound or suffered, by the rules of justice long received in this House, to confute by argument and proof. Yet in prudence and in political honor they are amenable to every popular suspicion that can breathe upon their character; for it would be a barren though a sure victory of their innocence at this Bar, if they were only to say, “We are not put upon our defence, “we shall therefore make no defence at all; and “whatever the Public may think of us out of doors, “we claim to be acquitted here.”

I stand

I stand before your Lordships upon three grounds; and I feel them as firm to me as a rock, whether I separate or unite them :—1. There is no ground of confiscation (legal or legislative) proved or stated in this Bill.—2. The Company have more than exculpated themselves against every suspected imputation; they have proved exemplary merit and ill-requited services to the Public.—3. The remedy offered *kills* the patients, to *cure* them; and by a new disorder, whose infection spreads like a pestilence, corrupts the vital stamina of the public health, and shatters the whole frame of the Government.—When I touch upon the first of these topics, can I forget the peculiar province of your Lordships to interpose a judicial and appellant controul over injuries to common right in every form, political or legal? If the Commons impeach, it's for you to hold an even scale between the accuser and the culprit. If a *Bill of Pains and Penalties* be received into this House, are your Lordships less vigilant over the rights of the subject committed in such a Bill? Where a *Bill of Policy* takes in its course forfeiture and punishment, imposing an *attainder by the bye* (if one may give it so ridiculous a name) upon parties unaccused, are you to be disarmed because the *penalty* is called an *instrument of reform*? No, my Lords: upon every such occasion I ascribe to your Lordships a judicial controul in your legislative capacity. To this House the *India Company* (Director, Proprietor, and Servant, who  
are



are made *one* by the oppression which has united them—to you, my Lords, and that pure spirit of honor which is the ruling feature of your character, address their last and solemn appeal.

Thunder-struck by this blow, and stung by the insult of it, they can with difficulty estimate the value of their loss, or take measure of the ruin. I shall however attempt a general, but correct view of it. The Company have at this time valuable rights of Empire and of Commerce; they have the order and government of them under certain regulations; they have an exclusive trade and revenue, which is their *property*, if the sixpence in my pocket is mine.—That which gives them these rights, charter, public faith, and contract for value received, gives them also the right of chusing their great accountable Officers in every department, and an immediate controul over these objects of their choice. This Government is the Constitution of the *East India* Company, and the Bill in my hand a death's blow to it. Checked and regulated often, but the general *right* and the general *form* of it have been held sacred for upwards of a century past. The Bill enacts a *dissolution* of them.—Suppose a Bill should say to the Constituent of the Commons, “ You shall not elect again—the Commons “ are no longer to sit as your Delegates; but we “ shall chuse them into a better House of Com-  
mons;”

“ mons ; and out of the new Parliament, so modelled, *seven Directors* of the Legislature shall be a Cabinet-Parliament amenable to us alone.”

I ask, if that would not be a *dissolution of the Government by King, Lords, and Commons*? The King would remain ; the Lords and Commons, that is, the *name* of them, would live ; but the *Constitution* of that Government would be no more. What says *this Bill*? It says to the Constituent of the *India* Director, “ You shall no longer elect him.” To the Representative, “ Your election is a political nullity ; you are from this moment out of your office.” To the general right of all the parties interested, “ Every sixpence of your purse, and every feather of your power, shall be *ordered and regulated* by us, the Parliament, without controul and without appeal.”

I must, however, do justice to the balm which has been poured into this wound, and pay due honour to certain “ *arrangements of delicacy*, which have softened the measure, so as to make it no longer injurious, though it might have given just alarm at first.”—Here, my Lords, I am to request, before I state what can be only conveyed in terms of ridicule, that I may not be charged with such levity upon serious topics. I am not the jester, my Lords, and the ridicule is none of mine ; it is the ridicule of insult, armed with power and aggravating injustice.

The

The advocates for the Bill in its *improved* and *more accommodating shape* have said, “ Pray don’t be  
 “ alarmed; let your slumbers be as light as ever;  
 “ your *exclusive trade* and *revenue* are still your own;  
 “ it’s *in trust for you*, that Parliament shall act, *re-*  
 “ *sponsible* to you, in their virtue, in their tried inte-  
 “ grity, not in their *power*; for there it happens that  
 “ you will, and must find them *absolute*; but their  
 “ *conscience* will bind them to your interest with more  
 “ delicacy and equal security.

“ But other scruples occur: It may be said, that  
 “ your new Directors appointed by this Bill are too  
 “ political for commerce, and therefore they shall  
 “ *only* have the *sovereign controul* over a commercial  
 “ Board, who are to be cyphers themselves, except  
 “ in the power to *advise*. To make such mere  
 “ Statesmen as the new Directors a Board of Com-  
 “ merce, would be an act of extreme injustice and  
 “ folly. They cannot meet without ridicule, even  
 “ to debate upon what they cannot understand; but  
 “ they shall enact every commercial arrangement,  
 “ with or without the approbation of these drudges,  
 “ and clerks in office, who may enlighten, but must  
 “ not guide them; may talk to them, but have no  
 “ claim to be heard.

“ We have more *indulgence* yet in store for you,  
 “ the Court of Proprietors.—It’s natural that you  
 “ should love to meet and chat over your own  
 “ affairs,



“ affairs, when your All is at stake : don’t be  
 “ alarmed, or imagine this freedom of conference  
 “ touched by the Bill.—You shall meet as before :  
 “ the Bill even at first enabled you to confer *twice*  
 “ a year; and in the Committee this *two* has been  
 “ changed into *four*.” Nay, my Lords, to heighten  
 the ridicule, if it could be heightened, I have heard  
 it a solemn topic of popular discussion, “ Whether  
 “ this Court shall meet *four, five, six, or seven* times  
 “ in a year ?” —“ Meet ?” they ask, “ why ? and for  
 “ what objects ? To hover, like departed shades,  
 “ over the favorite scene of our life, and lament  
 “ our untimely dissolution.” —“ I beg your  
 “ pardon,” says the Bill ; “ you may suggest ideas  
 “ of your own to those who have the power in  
 “ their hand. If they laugh at you, and reject  
 “ wholesome advice, you may address the King, and  
 “ the House of Commons ; that King, who has no  
 “ sceptre in his hand upon the subject ; those Com-  
 “ mons, who, by their Delegates, have done you  
 “ the wrong.

“ But a very dangerous misconception of the Bill  
 “ has gone forth : We must undeceive you in time,  
 “ and we do it with pleasure. You are only to  
 “ meet *four* times in a *General Court*, and as form-  
 “ ing it yourselves ; but meet in God’s name *any*  
 “ *where else*, and as often as you have a mind.—  
 “ Salisbury Plain, St. George’s-fields—*The world*  
 “ *is*

“ *is all before you*; talk of the new Bill, the new  
 “ Directors, or of any other subject, without preju-  
 “ dice to your allegiance, or the *King's peace*.

“ The Bill at first indiscreetly represented your  
 “ Citadel in Leadenhall-street as taken by force,  
 “ like a town besieged; your *securities for money*,  
 “ and your loose cash, fell to the conqueror. The  
 “ expression was harsh, and the sound of it invi-  
 “ dious. It was treating you as a bankrupt upon  
 “ his last examination at Guildhall, to ask for your  
 “ watch, rings, and pocket-money. We have cor-  
 “ rected the levity and seeming insult of the words.  
 “ No little circumstances of plundered property  
 “ are enumerated; but *all* that you have in the  
 “ world (a gentler phrase) will henceforth be *col-*  
 “ *lected* by *seven Receivers*, and employed by them  
 “ for your benefit.

“ But we forgot another *very interesting* accom-  
 “ modation to your prejudices. The title of *Di-*  
 “ *rector* shall be retained, and that of *Commissioners*,  
 “ which perhaps gave you offence, obliterated.”

Such are the *arrangements* for the benefit of the Proprietors, who, in the original *title* of the Bill, have precedency over the Public; though in the very first clause of it they are sunk, and the Nation described as having the whole stock of the Company, who are stated as the mere stewards and bailiffs of that estate.

The

The government of the Company thus dissolved for *their good*, say the Company themselves, “ We “ don’t happen to like your benefits; why are “ these blessings forced upon us ? ” “ Your answer is *here* ” (says the Bill, pointing at the first clause). We have heard of *expert Rotisseurs*, and of murder *secundum artem* : the first clause of this Bill is a most accomplished master-piece of that science. The Company are just *accused* enough to be held up as delinquents, and just *unaccused* enough to have no refuge against the calumny insinuated. My Lords, I implore, as mercy to them, that some of their bitterest enemies may accuse them face to face, at this or any Bar, in terms which they can meet, and fairly encounter. Last year, my Lords, what passed where I stand ? Chearing sounds to public freedom were heard in this place, upon the subject of another disfranchisement affecting the corrupt electors in a Western Borough. There too was a *Bill of reform* ; and there too, because the disfranchisement was to be the *road* of that reform, an attempt was made by some to impose upon this House lighter evidence of the guilt. What said one of the first oracles in the kingdom upon that occasion ? “ They shall be heard in every period “ of the Bill, against every part of it : strict and “ accurate proof shall convict them, or not a hair “ of their head shall be touched.” It was nobly said.



said. Better is it, my Lords, for the community at large, that flood-gates of bribery should be opened, than that one individual should be divested of his legal franchise in this or any Court, unaccused, imperfectly heard, or upon imperfect evidence.

As Counsel for the Directors, I looked with keen eyes into this little volume of their *punishment*, for some traces of their *guilt*. *Safe* in the first clause, I saw them *out* in the second, and *first accused* in the eighteenth; there *alone* accused, and there in terms not very definite; accused of connivance in general at the misconduct of their servants employed in the *East*. Having made the discovery, I engrafted upon it a Petition for two little favors:—1. that such an *error of the type* in shifting this clause out of its place, might be corrected, and what appeared in page the seventh might resume its natural position in page the first:—2. that any one, two, three, or four instances of the misconduct imputed, should be adduced, and the Directors put upon their defence. What's the *mercy* of the Bill in its present form, by way of answer to that request? *Una litura*; the whole charge against the Directors swept away. My Lords, I feel no thanks to the Bill for so *cruel a mercy*. As a record for posterity, the Bill is worse; (for that posterity, which I trust in God that such a Bill never can reach;) for if this clause had remained part of the Bill, it would have left the semblance

blance of a definite charge, and after-ages would imagine, that it might have been supported by some kind of proof.

I may be told, "that I beg the whole question, " the Directors being the *managers* of the Company, " and *mismanagement* the imputed source of those " disorders which have plunged the Company into " ruin." If they were the *sole* managers, I should own that here they would meet something like a charge, an accusation pointed immediately against them; but I would then say to the accuser, " Point " the charge in terms a little more specific, and bring " forward your proofs of it."—A case occurs to me as very parallel to this. Could a Minister be put upon his defence against a general charge of mismanagement? I shall be answered, "that he could not upon impeachment, for there every imputation must " be definite, and clear." " Could it then be done " (I would ask) in this oblique way? and could " the King be disarmed of his power to chuse a " *new* Minister, because a Bill of policy should " acquaint him that one of his *present* Ministers had " in some degree or other misconducted himself? " And could it be an inference drawn from such " a recital, not that he, the Minister, should be " impeached, and should answer for himself, but " that he should be turned out (upon common " fame, perhaps, or a loose opinion of his guilt " founded

“founded in select parcels of written evidence)  
 “that his Majesty should answer for him in the  
 “form of a dismissal, by Parliament usurping his  
 “prerogative, and that in future he should not ap-  
 “point *any* Minister again? would such a Bill be  
 “endured?” And yet I challenge the wit of man  
 to distinguish it in fair analogy of principle from  
 the Bill at this moment before the House.—The  
 first recital of it is, “That a *fit and immediate re-*  
 “*medy* must be applied (not this remedy *in spe-*  
 “*cie*). Disorders have long prevailed, continue, and  
 “increase; *probable* (not certain) ruin will fall up-  
 “on the Company, if *some* fit and immediate reme-  
 “dy is not applied.” What are these disorders?  
 How long have they *continued*? Why is *this* remedy  
 fit? How much has the disorder *increased* of late?  
 and in what parts of it? What hitherto can be more  
 indefinite than its *age*, the *size*, or the *nature* of it?  
 How can the culprit meet such a description? But  
 who *is* the culprit? Is it remembered into how many  
 distinct classes the amenable character is divided?  
 Will it be denied that, for example, the *Directors*  
 may be innocent, and even held innocent by the  
 accuser himself? The *Servants* abroad may be in-  
 nocent, or the whole guilt may be theirs. The Court  
 of *Proprietors* may alone be responsible for the abuse  
 of their controul over the Directors, whom they  
 appoint. The *Minister* of this country, for the  
 time



time being, may at least have an ample share of the guilt. From the year 1773 it has been proved at the Bar, that Administration has *de facto* exercised the uniform power of revision, controul, and assent or dissent, at will, over all the regulations of Leadenhall-Street. I claim for every one of these parties, that each of them (the *Minister* inclusive) should be heard, and according to their delinquency punished; but that every general right, though abused, should rather be guarded against future abuse, than exterminated.

One great advantage to injustice and oppression will be sure to arise from so general an attack. Indolence and prejudice brood over it. With *one* of the many Judges who sit upon it, Mr. Hastings, a servant of the Company, is the sole culprit, and his guilt is the corner-stone of this revolution: with *another*, it's the distress of the Company's purse. "*Let them look to their Bond;*" they are Bankrupts; they have been so called upon the Exchange, by a singular *mistake* of the most luminous understanding that ever enlightened a public audience. And yet since that mistake has been set right, various attempts have been made, though all of them failed, *and many of them with some degree of ridicule*, to represent the Company as being, to certain purposes, and upon certain principles of analogy, *in the nature* of Bankrupts. Many too have been the imputations thrown upon their account; and their

ingenuous anxieties to vindicate their finance from the calumny have been treated with insult. A third strange ground has been taken up: "This great Company (we are told) was formed only for commerce, and is equal to that subject alone; yet they have suddenly (as if it happened yesterday) slipped into politicians." We are told, "that it's an abuse of terms to set up their property in dominion;" and from those premises the inference attempted is, "that as little can they exercise dominion over their property;" for they are treated by this Bill as perfect idiots in the Commercial as well as Political Office.

How can the Directors for whom I stand, oppose this variety of topics, when, as motives to the Bill, or even as arguments for it, they don't appear in the Bill itself, or in other visible and palpable forms. Yet I shall readily meet them all, and meet them as if *preambles* to this Bill; for sure I am, that if they fail in that situation, your Lordships will not give either weight or currency to them in a more questionable shape.

If the Bill should say, "that *all* who *can* have been delinquents have been criminal in fact," I should ask, "how criminal?" and call upon the House to compare the degrees of their guilt as measured out between them, to the extent of the remedy affecting *all* of them.

If

If the Bill had said, "that *one* of the Directors alone had been criminal," I should say, "Prove it; punish *him*, spare the rest, and save the right."

If *mismanagement* is the sole ground, and a degree of it which this Bill can alone correct, compensating by general good for injustice to particulars, (and it has been so argued) "prove it; give me facts, and I'll reason upon them without fear."

My Lords, I lament with deep concern the catch-word of policy, too familiar to the supporters of the Bill; a word of ill-omen'd sound in this country, which threw us into a civil war, lost a King his head, and scourged us with a tyrant House of Commons; I mean the word *necessity*. A real and extreme necessity of State levels every order of men; it abrogates legal rules with common assent. As it was correctly and ably said by one of the Counsel who preceded me, such a necessity never can operate between the several members of one and the same *existing* Government. It must act upon a *dissolution of the Government*, real or assumed. It has been truly called *the tyrant's plea*, and as truly called for another purpose *the patriot's plea*. It's both; but how became it in this country *the patriot's plea*? Instructed by the Tyrant, he flung the word in his teeth. Subjects have *their* necessities too. The Civil War and the Revolution were necessities which counteracted the abuse of the term, as pleaded by the



Legal Sovereign. But shall it be said, that *probable* ruin to liberty will justify a *second Revolution*? I will at least never say it; and yet, I would for ever insist, that no degree of necessity can justify the Sovereign Power in wresting from the Subject his legal right, (without an equivalent) short of the degree which, if the tables were turned, would justify the Subject in rising against the Sovereign Power. But prove such an extreme irresistible and fatal necessity here. It's not attempted in proof; it's not averred in the Bill—though assumed in the argument. Perhaps in the case before us we may define it thus: “A necessity much too strong to admit of delay, from the time it will take to make it appear.”

Your Lordships will however be too dull to avail yourselves of Lord Clarendon's hint upon the subject. That sagacious writer and statesman says upon the case of *ship-money*, that it was ill managed.

“The partisans for it (according to *him*) should not have dishonored the law by corrupting it so as to make the tyrant carry his point in that shape; they ought (says he) to have come into Parliament, and there have declaimed upon State necessity; for there a little eloquence well applied by the oracles of the day would have softened the alarm.” He quotes a passage from Thucydides, which imports, “that acts of mere *violence* offend less than acts of *injustice*; because the last of these

“ these blows, coming as from an equal, *piques* and *affronts* the suffering party ; but the other, proceeding from an acknowledged superior, is more easily borne.” But here, my Lords, I can see many Sages of that Law which Kings have corrupted (in the worst ages of the Government), and who will scarce be less tenacious of their judicial province here, than sitting in Westminster Hall, where no little or dirty politics can reach them.

When I speak of *probable* ruin as amounting to a political necessity, I cannot forget the word “ *speculative*,” not very unlike it, which I believe may be found the epithet of another *India* Bill, and standing at the moment in which I speak upon one of the many records in this House which glow with characters of public virtue.

“ Where has this *necessity* been so long asleep ?” was a question asked in the case of ship-money ; and it’s too applicable here. It was there said, “ We are just come to the end of a war ; could the necessity have slept in the course of that war ? and shall the discovery of it be first made by the peace ?”

If the disorders which are insinuated have *long prevailed*, this Administration would have resigned their offices by the same argument in a case which I am going to put. It might have been said in 1781, with *no prophetic spirit*, but with some

color at least for so ill-bred a supposition, " We  
 " don't like to intrust you, the new Ministers,  
 " with a dangerous power. We have seen that  
 " power which you have wrested from others much  
 " abused, and we are not *sure* that you, the *new*  
 " Directors of the Public, may not be reconciled  
 " hereafter to the *old*. We can't be *safe* unless we  
 " bind you with strong fetters, and guard ourselves  
 " against the corruption or abuse of your populari-  
 " ty at this moment." Had such *visionary* fears been  
 " accomplished at the hour in which I speak, and the  
 " check had been omitted when the power had been  
 " first given, I could say to the Ministers of the day,  
 " as the Bill argues here, *mutatis mutandis*, " The  
 " *American* war is *one* disorder which has long pre-  
 " vailed, and whose mischief operates at this hour.  
 " The *influence of the Crown* is reformed at present,  
 " but it may return in other shapes, and worse.  
 " The *Ministers* have done this; and if the King is  
 " to chuse his own Ministers again, we can have no  
 " adequate or permanent security." One of the  
 " Ministers (the *new* and the *old* thus incorporated)  
 " would say, " I am a *new* Director; it was not my  
 " *American* war; I voted against the corrupt influ-  
 " ence of place and pension; I would have reform-  
 " ed the Parliament if I could, &c." What's the  
 " reply? It's like that of this Bill: " *Some* of you  
 " had a hand in the political disgrace and ruin  
 " of twenty years past. Our censure can't with  
 " safety



“ safety make little differences. You have some  
 “ of you done irreparable wrong in your capacity  
 “ of Ministers; and you are all of you now Mini-  
 “ sters in harmony together. The King chose you  
 “ into your office; he must choose you no more;  
 “ we must choose our own seven Directors of the  
 “ Government, our Delegates and Representatives,  
 “ amenable to us alone, whose power is absolute.”

Many other illustrations will make the fallacy of  
 such reasoning familiar. Suppose it said (which hap-

“ pens to be the fact), “ that there are *disorders*  
 “ at every General Election; that a corrupt influ-  
 “ ence has too often taken place between the Can-  
 “ didates and the Voters; that a *fit* and *immediate*  
 “ remedy should be applied; *wherefore be it enact-*  
 “ *ed*, that no such Elector shall choose into Parlia-  
 “ ment any more.” That leap, however, was  
 carefully shunned in a famous Bill of reform  
 applicable to the very subject last year; a reform  
 which infused life into the vital parts, but saved  
 every existing right from the hand of power.

I said, that Servants of the Company in general  
 were some of the parties responsible for the disorder,  
 if it has happened in fact. Mr. *Hastings* is one of  
 them, and more at least has been said against *him*  
 by *name*, than against any of the rest. Yet,  
 which is not very fair treatment of the Directors,  
 he himself, who has been arraigned as counteracting  
 the

the “*pure system of their ethics*,” has been quoted as reflecting upon the impotence of their Councils, and great stress laid upon his political censure of this defect in the Constitution. That *great and good man* (so I have called him, when part of his conduct seemed adverse to those for whom I was an advocate, and so I shall ever call him, friend or foe) courts prosecution, but courts it in vain; yet his *crimes* are to justify the Bill. Not that we can find them so treated, or find them at all *in* the Bill itself. They are circulated, however, in streets and highways, to depreciate his popularity, and by factious calumnies levelled at him to give the Bill a helping hand. Is it fit, or is it not, that he should be heard at this Bar by his own Counsel? Is it no injury, no dishonor to him, that Scorn should point her finger at him and say, “You, who owe your consequence, your power and fortune to the masters you have served, are the party whose guilt has been made the sole or chief plea for the dissolution of their Government.” I have heard of rumours, that in *due time* he is to be put upon his defence. Will such a Bill as this be of no prejudice to him *then*? Suppose, on the other hand, that his perfect innocence and exemplary merit should appear in that cause; what must then become of this Bill, founded upon his guilt? Will Parliament repeal it? Will those who have swept such powers into their hand sur-

surrender them? Yet if he desires *now* to be heard; “ You are not accused,” will be the answer. If he should lay by, and say hereafter, “ I had not “ an opportunity of being heard when the Bill “ passed,” the Legislative Justice of the Country will answer to him, “ You are convicted by this “ Bill; the King, Lords, and Commons *could* “ not have passed it unless they had believed your “ guilt, and thought it even too clear for any forms “ of proof.” My Lords, I claim this for Mr. *Hastings*, and for the Directors too. Let his guilt be deserted as a foundation of the Bill, or let him be heard at this Bar by his own Counsel against the direct and open charge of it.

“ But what has the guilt of Mr. *Hastings* to do “ with us?” the Directors may ask. “ You have “ continued him (it may be said) in a distant office of power almost absolute; you have tempted “ him by your connivance into a thousand acts of “ despotism and rapine.”—“ That we have continued him in our service, (they will answer) is “ true; and we have done it upon a general view “ of his important merits, though we have disapproved some parts of his conduct. Not that we “ have connived at them, but we have covered them “ with his laurels, and have been less extreme to “ mark with punishment so bright a character; “ which punishment by the way must have ruined “ us,



“us, for all our hopes were centered in him, as the  
“saviour of the Company.”

Had we no model for such a distinction? Had not we a model, which, though it was given us by the House of Commons themselves, we have copied only with caution, because in the full extent of it no precedent could be worse—in the guilt of another great servant, guilt of a different size from the *Opium-contract* of Mr. *Hastings*, or the pick'd hairs of that kind, if they were clear of doubt and fallacy? What, my Lords, was the fatal conduct of that House to Lord *Clive*, in the Resolution which declared the fact of his guilt, and voted honour to him in the same breath? I read the most pernicious encouragement ever held forth to the rapine of the *East*, that indelible stain upon the English character. It was a curse upon the Company, that such a vote ever passed, built upon so new and so improvident a maxim as “*gloria justitiam vincere.*” That vote, my Lords, gave a charter of impunity in oppression to all the accountable servants in the *East*; in a part of the world so distant from this, that nothing but strict and penal justice at home could reform the mischiefs of that circumstance alone. I agree to all the merits and services of Lord *Clive*; but his guilt was of such a deep hue, and the evidence of it so clear, that nothing could be so ruinous to the *East-India* Company as the vote of his indemnity.

demnity. It was a guilt of more consequence than his *character*, (though great and exemplary in public merit) and the evidence of it confessed by himself in a singular tone of defiance to the justice of Parliament. I call that House of Commons to this bar as delinquents (if not the most criminal) to whom the disorders of the Company must for ever be ascribed. In the case of Mr. *Hastings*, that Company have so far copied this model, and copied it well, that in their censure upon the *Robilla* war they mark a due resentment of disobedience, and their demand of stricter attention to them in future; but they honorably and wisely add, that Mr. *Hastings* deserves, upon the whole view of his character, to continue in their service.

When I touch upon this impunity of Lord *Clive*, may I not ask, Who saved him? What party in the House of Commons? What occasional majority? Whose eloquence and address lifted him to his pedestal, from the very judgment of his guilt?

But who are guilty of continuing Mr. *Hastings* in office? Not the Directors, but the Ministers of the day, who had the power of controul over them, in fact, ever since the year 1773, and as an article of right ever since the later period of 1781. It has been proved at your bar, that in the whole of this period, not a single dispatch upon arrangements of any kind, commercial or political, has gone to the

*East*

*East* without previous communication to the Minister at home. Whose, therefore, is the guilt, that from 1773 the Directors have resigned all their power, and have consulted the executive departments of State in every measure they have taken?

Here too let me ask, if the Sovereign power, in whom the controul was lodged by the Legislature of 1781, is to be divested of it by this Bill? If yes, it can be only because that executive controul has been abused. If it has been abused, how shall the Bill be justified, unless the King is heard, whose Ministers, the objects of his choice and favor, have so misconducted themselves? If the King is only to answer through his Minister, should not that Minister be accused, and put upon his defence, who asserted the right of controul over the measures which are criminated? But how is the argument shifted, and mutilated here? The Minister is to be safe; but the King, for whom that Minister is bound by the Constitution to answer, must be disarmed of his power to resume a controul executed for him by others, and abused by them. In this period, all that has ben pressed against the Company, at least every material imputation upon them, was known to the Ministers, who had by law an absolute controul over the subject. It has been said, that *Mr. Hastings*, amongst other acts of contumacy, resigned, and cancelled his own resignation. Was Parliament angry with him for it? Had the Minister



fter complained of it long after he knew the fact? It's known to many of those who hear me, that Mr. *Hastings* again and again intreated the Minister of the day to recall him, if he could not be supported against calumny and selfish intrigue. It's known, that his application was resisted, from the sense of his merits and services. If any such Minister could now act as a political second in command, I would ask him, "Will you now do that very thing, as a  
 "subaltern, which, as a colonel, you forbore to  
 "do upon principles which, if they operated *then*,  
 "operate with redoubled force at this moment?"

When I called this injustice unexampled, I spoke with fatal accuracy. In the business of the *London Quo Warranto*, *Pollexfen*, the Counsel who argued it, observed, that never in the maddest of times, up to that period, the delinquency of the Corporator had forfeited the corporate right. He took the liberty, impelled by the occasion, to insist, as I have done, that every Corporation was at stake, and the Government itself endangered. That infamous decision was reversed by King *William*, whose memory this Bill tramples in the dust; a Bill which goes many a bar's length beyond that precedent. The injustice there was less dangerous, because it marked the offence; it heard the culprit accused in a legal court of justice; and it argued from evidence, though its conclusions were desperate and wicked. Here  
 the

the guilt assumed remains in general averment alone, and the parties who have life or death in issue have no evidence or specific charge to meet.

I distinguish, however, between the Charter of this Company and that of other Corporations in one respect. The same kind of necessity which may resume this Charter will not have such an effect upon other incorporated Companies, because here is a delegated Sovereignty, which abused, I agree to the liberal and manly doctrine of the Counsel who spoke last: I throw charters behind me, and look forwards to the sole end of human power, to the happiness of those for whom it was made, or suffered.

But in this case no distinction of that kind is to be received; for the Bill cuts down the whole tree: for though not a hint of commercial mismanagement is insinuated, empire and commerce, the sceptre and the shop, are flung into one common ruin. The analogy therefore between this or any other Corporation is complete, and the Bill enacts a new principle of law; for it makes the supposed guilt of the corporate individual forfeit the charter'd right which he personates. No lawyer will in these times dare to affirm that such a doctrine is law; and without pedantry upon the subject, I can point out in a few words to the House, an obvious mischief or two that would result from it. 1. Can

it

it be just that a majority or quorum should bind the absent or dissentient by the penalties imposed upon their personal guilt? 2. Suppose a collusion between the King and this majority or quorum for the purpose of enabling the forfeiture, would it be fit and just that such a concerted forfeiture should prejudice those who are no parties to it?

As to the libel of the day which the newspapers have circulated, "that a Charter has been called "*a parchment with a seal dangling at the bottom of it,*" I have only to wish, that any such words had been uttered in the House of Commons; because, there I know a certain Whig Attorney-General who would have crushed the levity of that expression with all the weight of his eloquence and public spirit.

I lament the necessity of carrying your Lordships back to that infamous period another Eighty-three, just a century ago, the date of this *Quo Warranto*, in which Lord Clarendon's hint was overlooked, and law was again chosen to personate the tyrant. *Burnet* says, that "one *Saunders*, made Chief Justice "for the purpose, an immoral man, was the chief "instrument of that persecution." He names too the recently appointed Keeper of the Seal, through which the *reformed* and *regulated* Charter was to pass; but I, my Lords, will not presume to utter his name, because he is the ancestor of a respected

H

Minister



Minister in this age, whose *title* is the same, but who resembles only the good parts of the *character*, which is, that he was “ a man of excellent parts, “ but crafty and mean.” Through the artifice of those two individuals this act of tyranny was accomplished. “ The view of it (says *Burnet*) was to save “ the King from the fear of *troublesome Parliaments*.” I hope they will be ever troublesome to Kings, and Ministers too, when they abuse their office. The first judgment was not ill calculated for the purpose of intimidating other Corporations; and it produced that effect. All the rest made a formal surrender of their chartered rights, and they were all *regulated*: the terms were those of slavery on one side, and rapine upon the other. What followed these *regulations*? A series of tyrannies; and in five little years the *patriot's necessity* came forth, operating with effect for that glorious end which I hope your Lordships will not suffer this Bill to impair. Many arguments of the two *Eighty-threes* are so exactly the same, that I don't always know which is which; and as my eyes are weak, am not always able to distinguish between the figure 6 and that of 7, which marks the difference of the centuries. *Molliter manus imposuit* was there too, as it has been made here, the softening plea for this political assault. There too, as here, “ it's not your “ *property* that we touch; it's the *order* and the *use* “ of

“ of it, for *your own good*, for the single purpose  
 “ of *reform* and *regulation*. You shall have your  
 “ Charter again, the corporate right shall be safe.”  
 —Who would have conceived it possible, that such  
 infamous doctrines could ever be resumed ?

I have now detained your Lordships upon the  
 first, which I consider as the most important branch  
 of my argument, so long, that I shall be compara-  
 tively short upon the two other topics which re-  
 main.

The first of the two, which is the interest at stake,  
 the innocence and merits of the Company, has been  
 so ably supported by argument, and so demonstrated  
 by evidence, that I should impair that conviction  
 which I am satisfied your Lordships feel upon it,  
 if I should expatiate and dwell upon the parti-  
 culars.

That interest and those merits go hand in hand.  
 The Charters which formed the Company, dealt  
 their first bounties to them with a cold if not pe-  
 nurious hand. But as their services increased, the  
 encouragement became a little more generous.—Too  
 often, however, the wealth acquired by their com-  
 mercial and political enterprize for the Public, and  
 for themselves, has tempted the Government of this  
 Country to deal harshly with them, and, after dis-  
 tressing them by one exaction, to make that very dis-  
 tress an after-plea for heavier demands upon them.

—How many Charters have dropt insidious hints of a doubt as if *misuser*, *nonuser*, or some defect surmised not expressed, had not shaken the right? A *douceur* has removed the doubt; that sure opiate of the alarm, and sole end for which it ever has been infused.

As to their services in the war, it's no idle declamation to lay stress upon them.—The best officers in the world have been trained for us by them.—Lord *Clive*, to whose military name I feel the homage due to it, sprung from a writer's desk at Madras, and animated in their service became the first General of the age.

What shall be said of Mr. *Hastings* the *delinquent*? and what prepared him for his present character? Long the Servant of this Company, he has lived but for *them*, and for the Public united with them, sustaining the most arduous conflict with enemies on every side, and factions at his own Board.—What is the *real* character of this wonderful man?—He is the *Chatbam* of the East: the same enterprize, resource, commanding genius, enlarged conceptions, and purity of character, will make both of them the idols of posterity, when their little adversaries will be too obscure for infamy to record them.

The capture of *Pondicherry*, made at the sole expence of the Company, obtained for us the only *acquisition* we have received from the peace.

I shall



I shall decline the invidious task of stating how many of the later differences between the Company and the Minister supported in Parliament originated; what fear on the one hand, or avidity on the other, has prompted an ungenerous advantage of little embarrassments.—But I will say a few words upon two innovations which have taken place within a very few years, because arguments have been drawn from them, which appear to me very insidious and false.—It has been said, “the same Charters  
 “are violated and resumed *pro tanto* in the  
 “*Dividend-Bill*, and the restraint imposed by another Act upon the voting right in the Court of  
 “Proprietors.”—I answer, that as to the *Dividend-Bill*, first there was proof at the Bar of the just grounds upon which that Bill was framed.—“We  
 “(said the public) are your creditors to a large  
 “amount.—A part of your property shall be locked  
 “up to a certain degree, for a little time, that  
 “you may be the better able to pay your debts:  
 “you are now (and it was proved) wasting  
 “that property, and are dividing *more* amongst  
 “yourselves, when you ought upon every sound  
 “principle of justice and prudence to divide *less*.”  
 The Bill so explained was temperate and wise; but it was not very *popular*. And if this House had foreseen that so dangerous an argument of supposed analogy could be ever engrafted upon it, you

would have refused that Bill, my Lords, without a dissentient vote. Such is the danger of precedents injurious to a chartered right, though gentle in the measure of them, and just in their political aim.—It's perhaps wiser upon the whole to say, “Not a  
 “ *bair of the head* shall be injuriously touched for  
 “ political good, if the advantage of that precedent  
 “ may enable the hand of power to-morrow, or  
 “ weeks, or years, or a century hence, to *cut off the*  
 “ *head.*”—There, however, the Dividend was only reduced for six months. Here, a general restraint is imposed upon the power to make any Dividend at all.

As to the Bill which curtailed the voting right of the Elector, by the demand of his larger interest in the fund at stake; I, for one, cannot see the policy of its *enactment* (though its *intention* was good); for it proceeded upon the idea, that, by restraining the number of the Electors, you made the corrupt abuse of the right more difficult.—I take the reverse of that principle to be correctly just, and approved by uniform experience upon the subject.—Here too, though I shall not advert with too fond a zeal to the famous Protest upon the occasion of that Bill (and tho' such records have been called *Minority libels*), this I will presume to say of it, that I venerate those who put their names to it; and that if any of them can vote for the Bill now before us—can desert their fa-  
 vorite

vorite mistress, LIBERTY, kneeling at their feet with a more earnest claim than she ever made upon them —I shall say, as the deserted mistress in Ovid said of her capricious lover,

“*Xanthe, retro propera, versaque recurrite lymphæ.*”

I would readily make *recital* and *preamble* of all the arguments which I have heard upon the subject, and I would in that shape have no doubt of convincing your Lordships that such a Bill cannot pass. I have heard a similar expedient used upon a similar occasion by one of your Lordships, and one of the most admired; but I am in vain to hope that I can use it with half the same advantage and address.

Shall it be said, “*Whereas* there is a want of due “power in the Directors?” what shall be the inference? To give the *new* power, not strip them of the little they have. They have in some respects *too much* power, though *too little* in others; they have too discretionary a power over their Servants, and may *remove* them by the capricious breath of their absolute will.—Their other powers vested in them by the earlier charters are indeed reduced; but I remember that in the *Quo Warranto* year a right was given them to impose *any* penalties in a summary way, upon a short case, and upon rules of equity; an arrangement which is too like the power given to the new Directors by this Bill. They too are to



form a concise epitome of their sentence, and lay it before the Parliament who chose them, the Parliament who must answer for them, and must answer for them—to themselves.

Suppose it said, "*Whereas* the Court of Directors are too often re-elected" (which I conceive they are), let this vice of the system be reformed; and if it *can*, without prejudice to inherent rights, need I ask if that should not be the line preferred? It may be said, "You then must point it out."—I say, "No; those who state the necessity of *subverting the Government* for the benefit of the governed, must prove the inefficacy of milder expedients."

If it be said, "*Whereas* the territory has been acquired for *us*, not for *them*, and their political office, which does not suit *them*, has been recently usurped;" need I prove that recital to be false? Is it not familiar to the memory of your Lordships, that long before the *Dewannie* was acquired, this Company asserted the political character; that even before the time of King *William*, their charters treat them as having, and as deserving to have, in their own hands the order of an extensive empire?

"*Whereas* the distance of the scene enables many acts of disobedience to the Government at home to be accomplished, either with absolute impunity,

“nity, or with all the bad effects of it, because the  
 “punishment will be too late”—The recital is true;  
 but will the *distance* be *less* between the new Directors and their Servants abroad? That one great source of inconvenience to the Company’s affairs may be found in this truth so recited is indisputable, and agreed on every side. How to reform it is a point of extreme delicacy. Sure I am, that *India* must be governed *there*; and I would rather give *more* than *less* power to the Supreme Council of Bengal, if I could suggest an adequate and sure punishment of them here for tyranny or corruption, when they are to make up their final account. But is it certain that no arrangements worth trial at least may be discovered by unprejudiced men, who are conversant in the subject, which the new Directors are not?

If the “*whereas*” points at the “*influence of an Eastern Rupee* upon the *English* Proprietor in his General Court, or upon the Director who is chosen by him,” will the same Rupee have no influence over the new Constituent and Representative? But I doubt a little of this corrupt influence as a fact, because it’s very susceptible of proof, and there is not an atom of proof attempted in support of the conjecture assuming it. Popular eloquence in the Senate assumes every thing, and leaves the dull task of proof to a Lawyer at the bar.

If

If it's an ill concerted regulation, that a popular assembly may direct as well as controul the executive power; first, I answer, "Look at this Bill:" next, I ask, "Is it clear that such a political solecism may not with assent of all the parties be corrected, so as to leave the executive department less hampered?"

"*Whereas they are bankrupts*"—it may be said, it *has* been said, my Lords, and upon evidence that would make *every* merchant a bankrupt. I lament the use (or, I should rather say, the abuse) of so ticklish a word; because the injury which has arisen from it (wherever it was used, or whatever purpose of the hour it could have answered) was a violent shock to the Company's credit, and staggered the Public's opinion of it. But if they *are* bankrupts, (a *now* admitted falsehood, which I assume truth for argument's sake alone), *may* it not have been calamity, "the failure of agents," or the iniquity of them? Has it not been proved at your bar, that most of their temporary embarrassments (and such alone they ever have sustained) arose from their services to this country? We are told, "It is the *right* of creditors to impound the whole fund, and pay themselves:" But let us examine the debt, and liquidate the account, that we may adjust the fair balance of it between *our* Government and *theirs*. What if the latter owe to the former *one* million, but



but the former to the latter happen to be *four* million in debt? Shall they in that situation of *their* creditors to a larger amount, seize the whole property, and controul every future application of it as they please? One thing occurs to me upon this *bankrupt* state of the Company as a little whimsical. The Bill is pretty impatient for the *good-will* of a shop in the *Gazette*—pretty impatient for the empire of territories which they describe as impoverished, and a desert.

“Whereas the “*face of Tartarus*” appears in the reports of certain Committees formed by the House of Commons, and shocks the reader of them”—What then? Are not these cases of delinquency in the servant, which demand proof against *him*, and against the master as privy to it, before *his* guilt can wound or touch the corporate and general right? But was this “*face of Tartarus*” in a veil, or exposed, when *Lord Clive* escaped, and others, who shared his guilt without his merit, jumped out of the pit upon the shoulder of *his* indemnity?

Upon such naked recitals, even if *preambles* in the Bill, which they are not (and I hear of no others even insinuated), can the Government of the *East-India* Company be divested of their power to make a Writer, and appoint the Mate of an *Indiaman*? Is all their *commercial* authority at an end, because there have been some disorders in their *political* or *judicial* conduct?

conduct? I have not found a syllable attempted in support of *any* interference with *commercial* arrangement as it's now regulated by these commercial men, trained in the habits of it, and guilty of no *insinuated* abuse in *that quarter* at least. Here then is *one* palpable act of tyranny: You reform their *politics* by taking their *purse*; and one may suspect at least that your pretence of necessity for *that* reform was artifice, when you tack to it the reform of something else which you don't state yourselves to be in want of *any* reform, and which you make the instrument of your own political influence.

Assuming it necessary to dissolve the government by Director and Proprietor in their present form, I am now to examine the *substituted government*, and see what benefit the Company will derive under it; or how, be that as it may, the Public will *bear* it in a political view.

First, I observe this in the remedy offered, that it's just as indefinite as the disorder, and just as ably calculated for the purpose of giving an immediate answer to every Doctor who falls in the way of our great Physician, who consults the Faculty upon it thus: "We have here, Gentlemen, *a disorder*; I don't exactly know what it is (a good way to begin the cure!)—here is *my* cure for it;" and he produces the Bill. Says one of them, "I don't like to dethrone a good King; I am a  
" *Country*

“ *Country Physician*: the King’s power is a favorite  
 “ of mine.” What’s the answer? “ Phoo! don’t  
 “ you see, the King is to have it in the end? It’s  
 “ only for a time that *I the Minister*, and *we the*  
 “ *Parliament*, “ *Ego et Reges mei*,” shall make use  
 “ of it. In *four* little years (a term that, if it  
 “ proceeds *for a day*, will *never* be at an end) the  
 “ *King shall have his own again*.” Says the *Town*  
*Physician*, “ I am for the College; I am against  
 “ all influence of the King, or of his Minister,  
 “ who, though he stands to-day upon Parliament,  
 “ may shelter himself in the Regal character to-  
 “ morrow, or at the end of these four years.”—  
 “ Phoo! (says the answer) do you think Parlia-  
 “ ment, having such a power for this *nominal* pe-  
 “ riod, will *ever* part with it for the benefit of the  
 “ King, or of his Minister?”—Says a *third*, “ I  
 “ like to entrust neither King nor Parliament with  
 “ such a power: I tremble at the patronage, and  
 “ the corrupt influence of it.” What’s the an-  
 “ swer? “ It’s *pro hac vice* alone. The Company,  
 “ improved by our conduct in these four years,  
 “ may and will be entrusted again with all their  
 “ powers.”—Thus agreed, they go to the patients  
 in the next room, and *force* upon them the recipe  
 of *this Bill*, “ which can alone cure every one of  
 “ them, first or last.” But the cases are different.  
 One has dropsy, a second has fever, and “ I am  
 “ *well*,”



“*well*,” says a third. The Physicians tell them, “they have no *time* to discriminate; the chariot is “waiting for them at the door. Some of you are “dangerously ill, and some incurable. We’ll give “all of you physic, or give you none, just as we “like it.” (I have seen a Charter of Edward the Second, granting such an absolute medical power to his Physician *volentibus nobis, aut nolentibus*.) “The main source of the *disorder* seems to be in- “*temperance*; and seven Doctors of our appoint- “ment, like *Sancho’s* table-physician, shall tell you “what food you shall eat, or from what food re- “frain.”

To the Servants of the Company another story is told. “Here’s a cordial for *you*; go to bed and “sleep with delight upon your pillows; no retro- “spect here; this binds up every wound.”

May I not, my Lords, a little more closely examine the seven *perfect men* who are put into this new office of Direction, amenable only to those who appointed them? May I not canvass a little their claim of superior virtue and wisdom? for there alone the beauty of this reform can be discovered—as every *vice of the system* will at least be *the same*. Their purity is alone to compensate for the absolute licence of oppression, of corrupt intrigue, or of servile politics. In the first place, I meet (and can scarce believe my eyes) *two* of the *delinquent*,  
them-

themselves, who form a part of the seven Angels. When I look at them in this Bill, I see the wings upon their shoulders; but viewing them as appointed in Leadenhall-street, I see their cloven foot. Are these men to be infamous and execrated, as chosen by the Court of Proprietors; but commence immaculate from the moment that a Minister, and a Parliament favorable to that Minister, shall have put their stamp of approbation on them? Of the other *five* Gentlemen God forbid that I should say, because I do not feel, any thing disrespectful; so far from it, that if I could have selected five individuals of merit, *untried in this new department of it*, but of the most unblemished honor in their own sphere, I would have chosen *them*. The second of the list I have the happiness to call my personal friend; and with pride have to own, that I am under many interesting obligations to him. The Honorable Baronet who is another of them was an ornament of our profession: with his abilities and liberal character, no man ever left us more admired and beloved. But this I can say of *them all*: They are *men*, they are *Members of Parliament*. I can say this further of them, without offence to the delicacy of their feelings: They are friends to that Minister who has chosen them into an office of great patronage and political influence: they are *men* too in this respect; they wish to perpetuate

petuate their own dominion ; all men wish it ; the human character loves power, and can scarce help abusing it ; they have political prejudices ; they prefer their own favorite Minister ; they have not an implicit faith, but a partial confidence in him ; they would be hateful if they had it not ; they are Members of a Parliament which can reward or censure them at will ; there *may* be a reciprocal courtesy between *them* and the Parliament, or those who may govern the Parliament.

If it ever had been said in Parliament by a Ministry just formed, “ that Majorities must at any rate “ be had, and at any rate be kept ;” if an Administration had been ever *built* upon that principle, and the first breath of their government had been such a Bill, how would a common way-faring man like myself, who does not look deeply into consequences that are speculative or remote, have shuddered at the danger of the journey before him ? Heaven be thank’d, that *no such principles have been declared or acted upon* : but future Ministers *may* declare them, and *may* act upon them in many Bills of the kind.

The Constitution of this country looks at the *power*, it never looks at the *men* who are entrusted with it. There’s no such monster of political perfection there, as a *patriot King* or a *patriot Minister*. Said my Lord Coke, “ I love the King well, but I  
“ chuse



“ chuse to meet upon record.” As to the Ministers of our day, every thing is chaste and holy in that quarter. I believe in all their liberal promises; I have an easy and credulous faith; it’s my temper; yet something whispers to me that I had rather be *safe*.

I may be told, “ This will only, at the worst, be “ a tyranny of three or four years.” First, I could “ ask, What security, that, with absolute power “ in his hand, the tyrant will chuse to abdicate “ when the four years are past ?” In the next place, I must remark upon one circumstance in the duration of this period: short as it is, it *happens* to survive the next General Election.

May I not before I leave this bar say, as Counsel for all the parties interested and competent in so public a suit, what occurs to me upon the tendency of this Bill to political influence upon the liberties of the Government; that influence, my Lords, which I may deprecate without offence to the House of Commons, because even our Statute Book, in some of its later pages, enables me to say, that *Regal* influence upon that House, in its *genuine shape*, is an evil which the country has felt, and has reformed. But if one little door has been shut against that influence, if the little household expences of a Court which never had much parade in it, have been pared away to guard the purity of the Senate, will your Lordships open the wider gate of another influence be-

yond comparison more alarming in the size and nature of it?

As to the controul over the servants of the Company, it's less than it was: Two checks upon them are taken away, the Court of Directors, and the Parliament, for which the substitute is no check at all. The check of Parliament over itself is a ridicule in terms, and the Bill shifts a responsible power, which it states to have been grossly abused, into an irresponsible hand. I'll prove this by the favorite argument of the Advocates for it. "Why (it has been asked) are the Court of Proprietors to answer for the Directors and for *their* servants?" The answer is, "Because they chose the Directors." Who then will answer for the *new* Directors and for *their* servants? who but the *new* Elector of them, which new Elector is the Parliament. But answer to whom? To the sovereign power of course, which is the same responsible Parliament, *responsible* to itself.

"Why too (one may ask) is the arrangement of this elective right so mutilated? Why is the King to have any power at all if he can't be entrusted with more? Why to have a nominal influence upon a vacancy during the four years?" It has been truly said, that his influence is *diminished*, though it's also increased by this Bill. So it is, *upon paper*, but in substance only the former: It's a lease for years in the Parliament, or in those who can make Parli-  
ment

ment their own, with a reversion, *if the Lessee for years abuses it*, in the King, or any other part of the Government. In vain has the *dangerous* influence of the Regal office been checked, if the *good* and *popular* influence of it in opposition to a dangerous Minister (assumed for argument) is taken away, and the influence of that Minister in Parliament is made perpetual. The Bill in that respect *accroaches the regal power*, and makes the King a Viceroy to his Ministers in Parliament (I mean still to *future* Ministers and *future* Parliaments). It's no longer the Parliamentary influence of a Minister (as the Constitution meant it should have been) through the King, and responsible for him; but it's the Regal influence of the Minister alone in the House of Commons; and the Democracy of a single room in the hands of that Minister alone.

Is the patronage transferred into this new and political hand, of no consequence to the purity of the Senate? I should be sorry to look behind the curtain of any Minister; but if your Lordships were now to find yourselves in that situation, you would see importunities upon importunities laying siege to the Minister of the day; you would hear him cry out, "Shut the door, tie up the knocker; say I'm sick, I'm dead."

Is it *constitutional* to make Parliament usurp any office of the supreme executive power? and is it



not a most inherent part of that power to chuse its own executive instruments? Mr. Justice Blackstone writes, that “ if the Legislature has any thing to do “ in the executive department, there can be no “ public liberty.” What then shall be said of this Bill, by which the King’s throne has been shaken to the centre, and that centre of it which is inseparable from the security of public freedom? He not only must not chuse the new Directors (whom *he* should appoint, if the Court of Proprietors must chuse them no more, and the future choice of them is to become an act of State), but he is never to chuse a Minister again, and will never be able to *remove* a Minister, if the voice of the People should cry aloud for this act of his regal capacity.

Here, my Lords, I again refer to one of the many records in this House, which have spoke the language of the Constitution. It’s impossible for any terms which the ingenuity of man could ever devise, to mark with such eloquence the danger of lodging this regal power in *Parliamentary Commissioners!*

May I look, my Lords, at many a *future* Minister and at many *future* Parliaments, if such inordinate power is given to *these*? May I not imagine a modern *Cato* seduced by such *another* Bill into absolute power; and a *modern Juba* by the side of him, dressing him in his Perpetual Dictator’s robe? “ I’ll stand

“ or

“ or fall by this great man,” his friend may say of him, “ live or die with him,”—in the act of making him, as a Minister, immortal, though he would think twice before he would follow him to Utica. May I not, in contemplating this Minister in embryo, take bolder liberties with fancy and conjecture?—May I not suppose a Minister who shall forget that he has ever been Sir *Thomas Wentworth*, and shall be tempted by his ambition to personate the *Earl of Strafford*, without his title, in the House of Commons, a fort in which he may defy the public resentment? May I not meet upon my pillow, in some feverish dream or other, a Minister, for whose *benefit* (if it may be so called) slaves to a Court and a virtuous Aristocracy may agree to melt in the same crucible together? If such a Minister should ever come to light, and I should live to see him in the last moments of his political existence, (which of course would be the last moments of his life), I would say to him, not in words of my own, but in those of a romantic and visionary poet, though writing in prose; I would say to him, as *Cowley* addresses another Protector of human rights in his famous Vision upon *Oliver Cromwell*:

“ Such protectors are men to their sheep: they  
 “ sell them, shear them, and eat them! What can  
 “ the wolf do more?”——

——“ You pretended freedom for all, and by  
“ the help of that pretence made all your ser-  
“ vants.”——

——“ You fought against Monarchy, when you  
“ declared for it; and when you declared against  
“ it, you contrived for it *in your own person*.”——

——“ Two millions a year could not satisfy  
“ your avarice and prodigality; you must have  
“ the whole Indies by sea and land; that great al-  
“ ligator must be your's alone.”——

——“ You have been commended for your *dili-*  
“ *gence*; I wish to God you had been a *lazier* per-  
“ son, and had been found asleep when other men  
“ are awake, instead of being found awake for your  
“ own ends, when other men are ordinarily asleep.”

——“ As to your *courage*, would to God that you  
“ had not been so *bold* as to violate openly, and  
“ *scornfully*, acts and constitutions of State !”——

“ If you are *great*, welcome innocent obscurity !  
“ I could not wish a heavier curse to fall upon the  
“ bitterest enemy of my life, than that his country  
“ should say to him,—“ *Nostrâ miseriâ et servitute*  
“ *magnus es.*”——

Mr,



Mr. PLUMER.

MY LORDS,

**I** HAVE also the honor to attend your Lordships on behalf of the Directors of the *East-India* Company, in consequence of their humble Petition to the House, and the order which your Lordships were pleased to make upon it, allowing them the permission of being separately heard by their Counsel against the Bill now depending.

A trust of so important a nature it is impossible for me to enter upon, unequal as I should be to it under any circumstances, and very ill prepared as I am at present, without feeling how much I shall stand in need, in the course of what I have to offer on behalf of the Directors, of the utmost indulgence both of my Clients and your Lordships.

In the observations which I have to submit to the House, it will be my endeavour, avoiding every thing of ornament and digression, to analyse and simplify the subject under consideration, to strip it of every thing which does not strictly and properly belong to it, and to try the merits of the Bill by the test of a few plain arguments upon it.

And, my Lords, I cannot help being sanguine enough to think, that nothing more than this will be necessary to induce your Lordships to comply

with the Prayer of the Directors Petition, and to prevent this Bill from passing into a law.

That your Lordships should at all be under the necessity of deliberating upon such a Bill, must, I apprehend, have arisen, in a great measure, from the wild and irregular discussion of it, by which its supporters have contrived to distract and mislead the sober judgement in another place. The real nature and tendency of the Bill have been kept out of sight. Many topics have been urged, which when properly understood will be found to have no relation to the present subject; many facts have been argued upon, which were not authenticated by evidence, some of them much misrepresented and misunderstood, others totally void of foundation; much industry has been employed, many unreasonable prejudices have been excited to bias and inflame.

My Lords, the *East-India* Company, pressed by so severe, so unexpected, and, as I trust your Lordships will be convinced, so unmerited, an attack, are happy in the opportunity which your Lordships' justice has afforded them of appealing to a tribunal where none of these obstacles will stand in the way of fair reasoning, temperate debate and just decision; where their cause and that of the Public will be discussed with all that gravity and deliberation which so important a subject requires; and will be determined upon its true grounds, upon those facts only  
which

which are fairly applicable to the subject, and substantiated by the evidence before the House.

These, my Lords, are the principles by which, on the part of the *East-India* Company, I have to desire this great Cause may be decided; and I have no doubt that the expectations which they have entertained will be fully answered by your Lordships' decision upon it.

The Bill which is now under consideration requires of your Lordships to adopt a plan consisting of two parts, which are perfectly independent of and unconnected with each other, and yet which are both essential to the whole. Each of these, I contend, is pregnant with consequences of the most serious and alarming nature, and yet both are necessary to be made out to your Lordships' satisfaction by those who undertake to support this Bill.

Your Lordships are by the first clause of this Bill required to take from "the United Company of  
 " Merchants of England trading to the *East-Indies*,  
 " the government and management of all their  
 " Possessions, Revenues, and Commerce; to annul all  
 " the powers and authorities of both the constitu-  
 " ent parts of this great Corporation, the Directors  
 " and Proprietors, respecting the same; and to  
 " deprive the Proprietors of their right of electing  
 " the



“ the Directors in future ; any Charter, Usage,  
 “ Law, or Statute to the contrary notwithstanding : ”  
 in other words, entirely to annihilate at one blow  
 this great Corporation in all its parts, with all the  
 rights, privileges, and immunities enjoyed by the  
 numerous Members of it, purchased for valuable  
 considerations, and held under the most sacred titles ;  
 —all are to be swept away against their consent,  
 and without the smallest compensation.

These, my Lords, are the measures proposed by  
 the first part of this plan; and these must be justified  
 in their full extent, before it can be open to your  
 Lordships to consider the new system proposed by  
 the second part of the plan. To make way for that,  
 reasons must be adduced that go the length of vindicating,  
 not any alteration or modification, but the complete  
 subversion of the present establishment. Yet surely, my  
 Lords, that must appear on the very state of it to be a  
 measure of the most serious and alarming nature. The  
 antiquity and extent of the establishment proposed to be  
 destroyed; the nature and sanctity of the title upon which  
 it rests; the number of individuals to be affected by it;  
 the magnitude of the collective body, forming the greatest  
 Corporation in the Kingdom, and possessing the largest  
 portion of the remaining commerce of the Empire;  
 the violation of Public Faith, the alarm to Public Credit,  
 the danger of the precedent; all these and many other  
 topics must crowd upon your Lordships

Lordships minds in considering these measures ; and excite the strictest enquiry into the reality and extent of the grounds, upon which they are attempted to be justified.

By the second part of the plan comprized in the second clause of the Bill, your Lordships are required to consolidate all the powers and authorities enjoyed either by Directors or Proprietors, and to transfer them to seven persons, nominated and appointed by the House of Commons, and invested by a subsequent clause “ with full power and authority to remove, displace, suspend, appoint, confirm or restore all and every person or persons whatsoever from or to any office station or capacity whatsoever, civil or military, in the service of the Company, or any way concerned in the management of their affairs within this Kingdom or in India.”

By these provisions all the Company's affairs; as well commercial as others, are vested absolutely in persons not appointed by, or accountable to, or any way connected with them; and five out of the seven, men wholly unexperienced in the complicated affairs of the Company. At the same time a new power is erected in the State, possessing the absolute uncontrouled dominion over an extensive Empire, and armed with all the boundless Patronage belonging to it, Civil, Military, and Commercial,

both

both a thome and abroad, not appointed nor removable by the supreme executive authority in the State.

The propriety and efficacy of this new form of Government with respect to the immediate object of it, and the policy of adopting it, from the effects which it might produce upon the Constitution of this Country, your Lordships will feel to be questions which furnish in themselves matter of very serious consideration, and which have no relation to, or dependence upon, any determination of the first question respecting the present establishment.

Your Lordships will expect to be satisfied, not only that it is expedient and necessary that *some* new plan should be adopted, but likewise of the fitness and wisdom and good policy of *this* plan in particular; and to hear it distinctly and correctly shewn, by clear and pointed argument, how the evils complained of under the present system, both in respect to the management of the Company's affairs, and the Constitution of this Country, will be removed *by this*, without the substitution of other evils equal if not greater than any now complained of in their room; and, that upon the whole, the plan here proposed is the best and most advantageous that can be adopted both for the Company and the Public.

Those



Those who undertake to support the present Bill are bound therefore to satisfy your Lordships upon both these great points: they must be able to satisfy your Lordships in the first place, that the whole of the present establishment of the *East-India* Company ought to be entirely abolished in all its parts; and secondly, that the new form of government which this Bill proposes, ought to be substituted in its room.

If your Lordships are not prepared to subscribe to both these propositions; if your Lordships should see reason to doubt upon both, or either of them, your Lordships cannot consent to the passing this Bill into a law.

These then, my Lords, are the great questions upon which your Lordships are now to deliberate; and they present themselves to your Lordships consideration in two distinct points of view.

In one point of view, your Lordships are to consider the measures proposed by the Bill, as they respect the general interests of the Public at large.

In the other, as they respect the private interests of this great charter'd Corporation, and all the rights, privileges, and immunities of the numerous members of it.

The point to which your Lordships are to advert, in considering the measures under the first head, is the policy; under the second, the justice of them.

Each forms a distinct, substantive, and separate ground of argument, perfectly independent of, and  
unconnected

unconnected with, the other, and each must therefore receive a separate consideration.

The policy or impolicy of the Bill has nothing to do with the question upon the justice of it; nor will the justice or injustice of it in any respect determine the question of policy. Measures may easily be framed, which are wise in respect to the Public, and yet very unjust with respect to the individuals; or which, on the other hand, may be just towards the individuals, and yet very impolitic in respect to the Public.

But before the Bill can be entitled to your Lordships' approbation, it must be shewn to be right upon both grounds. It must contain measures not only warranted by sound policy, but likewise consonant to the principles of justice.

If it can be proved defective in either point of view, if it be not just as well as politic, it must equally be condemned by your Lordships; for a defect in one respect cannot be cured or compensated for by its merits in another.

Your Lordships must therefore enquire into both points, and consider the Bill separately in each point of view.

My Lords, I submit to your Lordships, that there are decisive objections to the measures proposed by this Bill in both points of view.

Laying aside for a moment the consideration of the various important objects of a public nature which are involved in the provisions of this Bill,  
and

and the various objections to it upon those grounds which, though the most important, are certainly not *the only* subjects for consideration, I wish in the first place to draw your Lordships' attention to the clear and decisive objections which lay to it, in that more confined point of view as affecting the private rights of individuals, in which, as Counsel at your Lordships' Bar, I am more particularly called upon to consider it.

The Bill in this particular point of view must be tried by different rules and principles, and with a view to a different object.

In examining the Bill in this respect, I shall consider it merely as it relates to individuals, and for the purpose of examining the rectitude of its provisions merely upon the ground of justice to them. My Lords, the sacred rules of justice, and the obligation to the observance of them, are uniform and universal.

They are the same when applied to an act of the State as to the act of an individual, and they are equally binding in both cases; with this only difference, that the State, for the sake of the Public, has a power which no individual has over another, of appropriating the private rights of the subject to a public purpose, even without or against the consent of the owner. But in such cases a fair and adequate compensation is always made to the individual, the mode of ascertaining which by this House is familiar to your Lordships in every day's practice.



practice. Your Lordships know the caution used upon such occasions, and how strict an attention is always paid to every interest of the individuals, which is not found to be absolutely incompatible with the Public object.

There is only one other case in which the State is justified in taking away the private rights of a subject; that is, where they are taken away as a punishment for some crime, of which the subject has been legally convicted, and by which he has justly incurred a forfeiture of them.

These, my Lords, are the only two possible cases, in which the rights of a subject of this kingdom ever has been or ever can be, consistently with justice, taken away by any power in it; and consequently every act which deprives a subject of his private rights without being warranted upon one or other of these grounds, whether it be the act of the State or the act of an individual, must be an act of injustice.

Now, my Lords, the first of those grounds, that of compensation, has no consistence in the present case. The Bill offers nothing of that kind either to the Corporation collectively, or to any individual Member of it. That ground therefore must entirely be laid out of the present question.

The only points then which your Lordships have to consider in determining the justice of this Bill are these: Do the measures which it proposes take away any private Rights from a subject of this Kingdom?

If

If they do, are your Lordships in possession of any ground to warrant the taking them, as a punishment for any crime, which the person from whom they are taken is proved to have committed, and by which he has justly incurred a forfeiture of them?

With respect to the first point, that many valuable and important Rights are taken away by this Bill from the Directors and Proprietors of the *East India* Company, either taken collectively or individually, I apprehend there can be no doubt, when your Lordships consider what are the private Rights of which they are proved to be in possession, and how they are affected by the first Clause in this Bill.

A very erroneous and fatal opinion in respect to the nature and extent of the Company's Rights seems to have gone abroad. It has been imagined by some, that they are not in possession of any Rights which are not *publici juris*, and entirely at the disposal of the Public.

No idea can be more unfounded in fact, or unjust in itself.

What can have given rise to it, I am at a loss to conceive, unless it be from the claim which has been made by the Public to a participation in their territorial possessions; a claim, however, which has never yet been decided, and which, if admitted to exist in its greatest extent, would go a very little way in supporting the Public's claim to all the Company's possessions and rights. It would apply only to the particular possessions which are the subject of claim, and not even to them till after the expiration of the Act of

1781, which has secured to the Company a term in them of *eight* years longer, and the exclusive management of them during that period.

The right of sharing in, and of solely managing these possessions, the Company, therefore, at all events possess during the above period. In respect to all their other extensive and valuable possessions and rights; their property real and personal, the former amounting to above a million a year, exclusive of the territories claimed by the Public; their great commercial and other concerns; their various corporate rights, franchises and immunities, the particulars of which have been distinctly enumerated in the evidence, and which I need not repeat, derived under their numerous Charters; with respect to all these, the Corporation of the *East-India* Company stands exactly upon the same footing, and entitled to the same security, as every Corporation in the kingdom.

Their property is as much to every purpose their own, as the property of any one of your Lordships, or of any subject in the kingdom.

The Directors, my Lords, in addition to the various rights and franchises which they hold in common with the other Members of this Corporation, have also many peculiar to themselves; they are in possession of valuable and honourable offices, to which they have been duly elected, and in which they have, by law, a permanent interest for four years, with all the honors, emolument, patronage, and consequence belonging to them.

The



The title under which all these rights are held, is one of the highest and most sacred known in the Constitution; that title, upon which not only the security of all private rights of every denomination, and belonging to all descriptions of persons in the kingdom, but likewise all public credit, the sacred honour and integrity of the nation depends.

My Lords, their rights are held by more than twenty charters, confirmed by Parliament, purchased for valuable considerations, and enjoyed for near two centuries. It must, I apprehend, therefore, appear clearly to your Lordships, that the Members of this Corporation in general, and the Directors in particular, are in the possession of many valuable rights perfectly distinct and separate from those of the Public, and secured to them by the most sacred title.

Is there then any infringement or violation of any of these rights proposed by this Bill?

My Lords, without descending into the detail, I will only beg of your Lordships to read the first clauses of this Bill, and apply them to the different rights which appear to be at present enjoyed by the Directors and Proprietors of this great Company, to perceive that they are all, with very few exceptions indeed, entirely swept away and annihilated.

It is a very flimsy palliation, that the property of the Company is to be held in trust for them.

My Lords, is not the management and control over property as much a right inseparably annexed

to, and an essential right of property, as the use of it? And how is it material to a question respecting all the Company's Rights to say, that a particular one is not taken away with the rest?

I apprehend that I have sufficiently shewn that the Bill under consideration does take away from many Subjects of this Kingdom their private Rights.

And, my Lords, undoubtedly in this view of the Bill, and with respect to those individuals, it is a Bill of a highly penal nature.—The measures it proposes are a sentence of grievous and severe punishment. For what is punishment? Dispossession of private Rights, whatever be their denomination.

Whatever title, therefore, the Bill may assume, and however it may be considered with respect to the Public; with respect to the Directors and Proprietors of the *India* Company, it is a Bill of Pains and Penalties, and must as such be considered and determined by your Lordships.

Upon what ground then are your Lordships called upon to inflict this punishment upon these individuals? and how is the reality and extent of that guilt which is to be the measure of your Lordships' judgment ascertained?

Can your Lordships collectively, or in your legislative capacity, more than in your private or judicial capacity, pass a sentence of punishment, without examining into the grounds of it?

Must there not be a regular charge of some specific act of delinquency clearly defined, to which the prosecutor may be held to proof, and the accused know

know how to make his defence, and the Judge to decide upon it? Must not evidence be adduced in support of it? must it not be such as amounts to proof?

Must not all these precede the infliction of punishment, or can it in any case be justly inflicted on a subject of this country? Have all these steps been pursued in this case against the Directors or Proprietors of the *East-India* Company? Has any one of them? Is there any conviction of guilt to warrant such a judgment? Is there conviction of any guilt at all? Is there any evidence? Is there any charge?

Look at the preamble of the Bill, which is the indictment against them, and the only intimation of the charges of which they are accused :

“Whereas disorders of an alarming nature and  
“magnitude have long prevailed, and do still continue and increase, in the management of the  
“territorial possessions, the revenues, and the commerce, of this kingdom in the *East Indies*; by  
“means whereof the prosperity of the natives hath  
“been greatly diminished, and the valuable interests  
“of this nation in the said territorial possessions,  
“revenues, and commerce, have been materially  
“impaired; and would probably fall into utter  
“ruin, if an immediate and fitting remedy were not  
“provided”—

Would your Lordships have endured for a moment in any other place such a charge?

Is not a general indefinite charge the same as none?

Why? Because neither the Prosecutor can be held to proof, nor the accused know how to defend him-



self, nor the Judge what he is to consider or to nish.

Do not all these reasons apply here?—How am I, on the part of the Directors, to know what is the accusation?—Be they ever so innocent, is it possible to prove the negative of so loose and indefinite a charge?—I conceive therefore that I am warranted in saying there is no charge against them at all.

What is the relevancy of the facts alluded to in this preamble?—We have heard much declamation about misconduct in *India*. Let each fact be properly examined and traced; see whether the disorder be such as is the inevitable consequence of unforeseen events in an extensive Government carried on for a number of years: if not, whether it is owing to wilful misconduct, or those errors which no human Government is free from. If wilful misconduct, whether it be the criminality of individuals only, who should alone be accused and punished, or of the Government; and if of the Government, whether it be not solely the acts of the Government abroad, not of the Directors at home.

It is declamation, not argument, to talk of any facts upon a charge against the Directors which are not brought home to them. It is perfectly indifferent to the question of their guilt, whether abuses in *India* prevail, in which they are no way concerned. Have they committed any rapine, plunder, massacres, or any of the other favourite subjects of popular clamour? My Lords, the integrity and humanity  
of

of the Directors stand perfectly unimpeached.— This Bill affords the strongest testimony in their favour. Your Lordships will perceive, that the subordinate stations are filled up with nine of the present Directors; they therefore are not disqualified from any breach of integrity or want of ability. Even in the higher department, where, for the consolidation of powers, the trust is of a higher and more arduous nature, two have been selected from among this body;—two, no ways distinguished from the rest, either in point of integrity or capacity.— I mean no imputation on either of them; I am only arguing from their declared fitness for this exalted station, to that of the rest of their brethren to act in their present more limited sphere.

I assume therefore from hence, from the defect both of evidence and charge in respect to the Directors, that no guilt can be proved against them. From the very Bill itself I infer, that the direct contrary is confessed by those who propose to deprive them of their rights and offices. This, my Lords, is amply confirmed by our evidence. We have given your Lordships ample proof of general good conduct, the only proof which we are at liberty to adduce.

The history of our establishment, our territories, and commerce, the assistance we have given to the Public, the present state of our settlements, the general posture of affairs, the great exertions we have made, and the state of our finances, properly considered, shew a general attention to vigour and

good management; and that the *East India Company* have merits towards the State, which justly entitle them to the protection at least, if not the gratitude of the Public.

There is therefore, my Lords, not only no proof, no evidence, no charge of guilt against the Directors before your Lordships; there is none existing in point of fact; and the very contrary is acknowledged by this very Bill, and proved by all the evidence which has been adduced.

Standing therefore in this light of innocent men and meritorious before your Lordships, have not the Directors just reason to complain of this Bill as an act of the grossest injustice, which proposes to inflict such severe punishments, not only on themselves, but likewise, on their account, on the whole Company?

I have now, my Lords, gone through the consideration of the Bill upon this view of it, as it respects the rights of individuals, and I trust made out to your Lordships' satisfaction the proposition which I undertook to prove. And here, my Lords, my province ends, and here I may safely rest.

There is no occasion to enquire any farther. Having proved the Bill to want its first and best character, that of justice, it is immaterial what other characters it may deserve in other respects.

If this part of the Bill be in this view of it condemned, the Bill must be rejected *in toto*.

Such a measure, so unjust in itself, so alarming and dangerous in its consequences, so pernicious as

a pre-



a precedent, so fatal to the security of all private rights of every denomination, no considerations of policy, if that be proved to be ever so great, can justify.

But as policy is made a principal ground in argument for this injurious treatment of the *India Company*; your Lordships will, I hope, permit me to make a few observations upon that point.

Protesting, therefore, against any necessity to enter into this discussion, inasmuch as no possible result of the examination could warrant this Bill, I would yet be content to rest the fate of the Bill upon this point alone, the question of policy; that is, upon the comparative excellence of the present form of Government, with the one now proposed to be created, in every possible view of it; as it may respect the particular subjects of it, or as it may affect the Constitution of this Country, and which, upon the whole, is best adapted to the management of all the concerns of the Company political and commercial, with the least probability of defects, evils and corruptions; which upon the whole is likely to produce the most good and the least evil to this Country, and the Constitution of it.

I conceive there is no comparison between the two: That in the new system, all the evils that have ever been complained of in the present will subsist in as great, if not a greater degree, though perhaps in a different shape;—and that many new evils will be added which do not exist under the present establishment. Much has been said about the absurdity

furdity of entrusting all these great concerns to a set of men, constituted and elected as the Directors are. But it should be remembered always, in considering any form of Government for the management of the Company's affairs, that this is a great commercial Corporation, extended indeed very wide,—possessing factories and settlements of great extent; but the main object and plan of the whole is still commerce. The revenues are the sources to feed it, and they can be realized in no other way. The forts and armies are for the purpose of protecting it. All their establishment is adapted to this object; all their servants and plans are of this description.

The form of Government at home has a mixture of popular principles, well suited to the spirit and freedom of a great commercial Corporation. Under this form it has in fact flourished, and risen up to its present size. Commerce is therefore the principal object in this establishment; and on that account the most to be attended to. Commerce is also the principal source of advantage to this country. Hence flow all customs and duties, which have amounted, upon an average of fifteen years up to the year 1781, to about 1,300,000*l.* per annum. Hence are the fleets of this country supplied with seamen, the navigation of the Company's ships giving labour to 7000 men; and hence, likewise, is the industry of the manufacturers of this country promoted and encouraged, by an export of manufactures by the Company upon an average for the  
last

last 15 years of upwards of 500,000*l*. The commerce therefore on all these accounts is the most valuable object. The revenues and territories abroad are a very secondary and inferior consideration, nor would it prove any consolation to have them well managed, and the commerce ruined.

Considering then these to be concerns of a mixed nature, but of which the commercial are the principal; are they likely, speaking generally and without any reference to particular charters, now employed under one system or the other, to be best governed if wholly committed to the absolute control of Seven Statesmen appointed by the Minister, unconnected with the Company, unacquainted with their interests and politics, not responsible to them, or, in the ordinary course of their establishment, liable to any other control or superintendence whatever; or as at present managed by twenty-four men, partly commercial, partly of local experience, chosen by the free voice of the irconstituents, who are deeply interested in the subject, and accountable to them for all their conduct?

Is the Minister likely to employ his right of nomination in future with a stricter and more disinterested attention to merit, with less regard to private favor, and partial views, than the qualified Proprietors?

Is there a probability of finding amongst the higher ranks of men, more punctuality, more attention to business, more industry, more integrity,  
more



more general ability for the whole of these concerns, than amongst those who are usually selected?

If Merchants are unequal to the political concerns (which however is by no means justified by experience, and in no respect true in the present instance, where the orders of the Directors are admitted to have been a perfect system of Ethics, Policy, and good Government), will not the Statesmen be found much more unequal to the commercial branches of business, over which they are proposed to have the entire control, the Assistant Directors being only to execute their orders as Clerks?—Who is to instruct them in the rudiments of these various branches of business, perfectly new to them?—Who will teach them their Arithmetic of Commerce?—And when is it, raw and ignorant as they must be at first, that they are to have acquired a sufficient stock of knowledge and experience to render them equal to this general control over all the multifarious and complicated concerns of this great commercial Company both at home and abroad?

My Lords, the control of the Proprietors has been much complained of; but it may fairly be questioned, whether, upon the whole, it be not productive of more good than evil.

It contributes much to secure the executive government from all intrigue, cabal and corruption, the evils most to be apprehended in the government of *India*, and to which this new secret aristocracy would undoubtedly be exposed.

It

It is peculiarly calculated to promote that spirit and confidence which are the life of Commerce. By excluding the adventurers in this Commerce from all share in the management or control or even knowledge of it, and by committing it wholly to the control of seven men not amenable to, nor elected by them; all that spirit and confidence must be effectually deadened and annihilated; the whole vigour of Commerce will be extinguished. Who will adventure in a hazardous Commerce upon such terms? Would any Merchant in the City of London risque his property on such conditions? The new system is therefore totally repugnant to all the principles upon which the prosperity and vigour of Commerce depend. Whatever advantages it may produce in the political branch, the Commerce must inevitably be ruined by it, as well by the inability and indifference of those who are to have the chief control, as from the arbitrary and despotic principles upon which it is built.

The servants of the Company have been accused of indulging too much a spirit of conquest and ambition, to the neglect of their commerce.

In some instances this may have been the case, but under a commercial establishment, where commerce is the principal object, and the general interest; where all the men are of a commercial description, and all embarked in the same common concern; this can never be a permanent evil, especially as the affairs of the Company are now so well known

known and settled ; nor indeed has it ever been the system of the Directors. The best security against its being so, is their interest, their pacific habits of life, their aversion to every interruption of regular commerce.

But surely if this evil has prevailed under the present commercial system, it is not likely to be much remedied by the new system, where Statesmen are to have the lead, unacquainted with and uninterested in the commercial concerns. Can it be supposed that men of this description, and those of a similar turn whom they will of course put into all the departments abroad, will be more favourable to commerce, and more averse from politics, and all the intrigues and commotions which are the natural consequences, than the persons now employed at home and abroad ?

Another subject of complaint has been the means used by the Servants abroad to court a popularity amongst the Proprietors at home, their Masters, by accumulating wealth unjustly, for the purpose of gratifying the avarice of the Stockholder.

Such a practice cannot be permanent with success to the supposed object. Injustice, rapine, and plunder, may produce temporary wealth, but the advantages cannot be lasting. On the contrary, the prosperity or decline of the Company, and consequently the rise or fall of stock, must in general be the consequence of good or bad government abroad. The effects must be soon felt, and

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consequently the reputation and [popularity of the Servant abroad, or his disgrace, must depend on his good or bad government abroad.

The interest of the Stockholders, of the Company in general, and of the Public, are all one and the same, and never can be long separated, especially now that the affairs abroad are so well understood. The rise and fall of stock is a good general barometer to determine the merits of the principal servants abroad; and the interest of the Stockholder is a good general security for his consulting that of the Company and of the Public.

But if the principle of this objection, *viz.* that the servant abroad will consult the private interest of his masters at home, for his own sake, be applied to the new system, what must be the effects of it?

What will be the *private* interests of these new masters, and how must the servant abroad consult *them*? They are to have no private interest in common with that of the Company or the Public. Their private interest therefore must be the advancement of their relations and friends abroad, or the promotion of political views at home, if there are no worse interests consulted. The servant abroad must therefore recommend himself by advancing such relations and friends at the expence perhaps of merit and the regular service, and by favouring the political or other views of his masters at home. The interest of the Company or of the Public has  
little

little chance of ever coinciding with these private interests. In general, it will be sacrificed to them.

I forbear, my Lords, to notice many other topics upon this head of policy, which do not immediately affect the private interest of the Company, and which are more proper for your Lordships' consideration.

I trust, that the few observations which I have taken the liberty of submitting to your Lordships in this point of view, will be sufficient to shew, that the provisions of this Bill are equally condemned by the principles of Policy, as they were before shewn to be by those of justice.

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